

Ex. 1

Justin Wilkens

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1 Q. That's where he kicked you?

2 A. Correct. Sorry. I'm not -- I don't
3 do these things every day. It's all a little
4 green.

5 Q. Have you had your deposition taken
6 before?

7 A. Never.

8 Q. Have you ever sued anyone before?

9 A. I sued a landlord once to get my
10 deposit back.

11 Q. When was that?

12 A. And it didn't go to -- it didn't go
13 very far.

14 Q. When was that?

15 A. That was probably in the -- '97, '98.
16 Maybe. It's a long time ago.

17 Q. Where?

18 A. In Eugene. It was out in Veneta. It
19 was where the -- where the house was on Cougar
20 Lane, which is off Crow Road.

21 Q. Did you have an attorney?

22 A. Yes.

23 Q. Who?

24 A. Lauren.

25 Q. How long have you known Ms. Regan?

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1 to live with that the rest of my life.

2 Q. Did you trust police officers before?

3 A. Sure. We were all raised to trust
4 police officers.

5 Q. And what caused you -- causes you to
6 be in constant fear of police officers?

7 A. Well, when I found out that I was
8 getting pulled over, I pulled over, and I got ran
9 into by a police officer and then assaulted. A
10 police officer lost control of his vehicle and ran
11 into me. He nearly took my leg off.

12 Q. Did you have any injury to your leg?

13 A. No.

14 Q. So how is it that the officer nearly
15 took your leg off?

16 A. Because he lost control of his vehicle
17 and hit my motorcycle at about -- I don't know --
18 on a dial clock, twelve o'clock facing forward, he
19 hit me at about 7:30. And when you have your foot
20 on a peg on a motorcycle that's at about 8:30. So
21 if he -- he was pretty close to possibly hitting
22 my leg.

23 Q. He never hit your leg. Correct?

24 A. I said -- no. He never hit my leg.
25 He didn't know what he was going to hit because he

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1 failed to manage his vehicle in a correct way.

2 Q. Do you think he lost his vehicle on
3 accident or intentionally?

4 A. Intentionally.

5 Q. Okay. But a minute ago you just said
6 you thought it was an accident.

7 A. The accident could have been prevented
8 if he was using his sirens through the full course
9 of him trying to pull me over for speeding.

10 Q. How?

11 A. In one instance, I was going about
12 40 miles an hour, not accelerating, with my helmet
13 on, and he didn't have his sirens on. It was a
14 perfectly wonderful time for me to hear his
15 sirens. Just like I did when I was approaching
16 the stoplight, because my motorcycle was not -- I
17 was not -- I didn't have any gas going into the
18 throttle-bodies.

19 Q. When --

20 A. So it wasn't running -- it wasn't as
21 loud. The motorcycle is loud. If he would have
22 been doing his job correctly I believe that I
23 would have heard his sirens when I wasn't
24 accelerating and this whole situation wouldn't
25 have happened.

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1 Q. At what point in the pursuit, the
2 high-speed chase, was it that you're saying he
3 should have had his siren on?

4 A. Right from the get-go.

5 Q. And you think that if he had his siren
6 on at the beginning --

7 A. I would have heard it when I slowed
8 down for that car, for the infamous Honda.

9 Q. Why do you say "infamous Honda"?

10 A. Well, because that's the car that I
11 thought was behind me the whole time.

12 Q. Why didn't you notice that that wasn't
13 the car that was behind you?

14 A. Why didn't I notice that? Because I
15 was riding on a motorcycle. You can't turn around
16 100 percent behind you when you're riding a
17 motorcycle. For one, you don't want to do that
18 because you take your eyes off the road. The
19 mirror on the motorcycle vibrates. His car was an
20 undercover car with low-profile lights.

21 Q. You agree his lights were on?

22 A. I did not see his lights on until I
23 approached the stoplight, and that's after hearing
24 his siren. And my motorcycle wasn't vibrating as
25 much and I could see clear through my mirror. I

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1 had one mirror on my motorcycle. It was that big.
2 About.

3 Q. When you say "that big," can you
4 provide an estimate for the court reporter,
5 please?

6 A. I would say about 2-and-a-half to
7 3 inches diameter. On my left bar. Left side of
8 my handlebars.

9 Q. Is there a right-side mirror?

10 A. No. You don't have to have one in
11 Oregon. You have to have one mirror.

12 Q. Do you think it would be safer if you
13 had a mirror on the right side?

14 A. No. When I drive my motorcycle, I
15 drive defensively and offensively. I try to keep
16 all traffic away from me as much as possible to
17 alleviate an accident.

18 Q. Does that include swerving around cars
19 when there's a double yellow line?

20 A. When they're leaving me to go -- to
21 pass them, yeah. That's the car I slowed down
22 for, the infamous Honda.

23 Q. The one you passed when there was a
24 double yellow line?

25 A. The occupants were waving me forward

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1 inside the car.

2 Q. Did you --

3 A. I thought they had car problems
4 because they were going so slow. Obviously, they
5 maybe saw the police officer's lights, but there
6 was no siren.

7 Q. What was your rate of speed at the
8 time you passed the Honda with the double yellow
9 lines?

10 A. Forty, 45.

11 Q. What was your rate of speed through
12 the duration of the pursuit that Captain Edwards
13 was behind you?

14 A. I'm not really sure.

15 Q. Would you agree that at some point you
16 were going over 100 miles per hour?

17 A. I'm not sure. I never looked at my
18 speedometer.

19 Q. Do you think it's important to know
20 whether you're going the speed limit or over the
21 speed limit?

22 A. Yes. But I choose not to take my eyes
23 off the road because of gravel, animals, people,
24 talking on cellphones, someone getting their mail.

25 Q. How long have you been riding

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1 guesstimating on the 40.

2 Q. Do you have any idea what rate of
3 speed you were going during the time that
4 Captain Edwards was behind you?

5 A. I have no idea. I knew there was a
6 car behind me, and, like I said, I try to keep all
7 cars at a distance from me, because of -- I'm
8 trying to alleviate an accident.

9 Q. Why didn't you notice that it was a
10 police vehicle behind you?

11 A. Because my mirror was vibrating.

12 Q. Do you think it's important to know
13 whether emergency vehicles, like police vehicles,
14 are behind you on a motorcycle?

15 A. Absolutely.

16 Q. Do you think that's an obligation that
17 a motorcycle rider has?

18 A. I think it's an obligation of a police
19 officer to use a siren so that whoever he's trying
20 to pull over can hear him.

21 Q. Do you think that a motorcycle rider
22 has an obligation to make sure that they can tell
23 when emergency vehicles like police officers are
24 behind them?

25 A. Yeah.

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1 A. Sport touring maybe. I don't know.

2 (Reporter inquiry.)

3 THE WITNESS: Aprilia,

4 A-P-R-I-L-I-A.

5 BY MS. VAN METER:

6 Q. What's the top speed of this
7 motorcycle?

8 A. I think in the manual it says it will
9 do about 170.

10 Q. What's the fastest you ever drove the
11 Aprilia on the road? Excuse me.

12 A. On -- on a public road?

13 Q. Anywhere.

14 A. I've had it well over 100 miles an
15 hour at Portland International Raceway.

16 Q. How often would you go to Portland
17 International Raceway?

18 A. That's where I learned how to ride a
19 motorcycle. Like by a professional. I've been
20 there a few times.

21 Q. When was the last time you went to
22 Portland International Raceway?

23 A. Seven years ago, eight years ago. I
24 don't know.

25 Q. And you took the Aprilia motorcycle

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1 there?

2 A. Uh-huh.

3 Q. Yes?

4 A. Uh-huh.

5 Q. You need to answer out loud.

6 A. Yes.

7 Q. And when you took the Aprilia to
8 Portland International Raceway, what was the speed
9 that you got it up to?

10 A. I don't know. I didn't look at my
11 speedometer. That's one of the things they teach
12 you. It's like why you're not allowed to use a
13 cell phone on the road or text, because you take
14 your eyes off the road.

15 Q. What's your best estimate of the top
16 speed that you reached at Portland International
17 Raceway on your Aprilia?

18 A. I don't know.

19 Q. Is it over 100?

20 A. I would guess over 100.

21 Q. Is that your best estimate is over
22 100?

23 A. That's a guess. Yeah.

24 Q. Is that your best estimate?

25 A. That's my best guess, yes.

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1 Q. Do you exceed the speed limit in order
2 to do that?

3 A. Sometimes if I have to, yes.

4 Q. Do you know whether you exceeded the
5 speed limit on August 3rd, 2012?

6 A. I don't know.

7 Q. Do you have any estimate of the rate
8 of speed you were going on August 3rd, 2012?

9 A. No. I was asked that multiple times
10 after the accident.

11 Q. Do you think it's important as a
12 motorcycle rider to know whether you're going over
13 or under the speed limit?

14 A. I usually just flow with traffic and
15 stay away from people.

16 Q. You were passing vehicles on
17 Crow Road. Correct?

18 A. I passed, yes.

19 Q. So that's not going with vehicles.
20 That's passing them. Correct?

21 A. Passing vehicles so I could go through
22 the corners at a higher rate of speed than
23 everybody else does or would normally in a car.
24 You can go faster on a motorcycle in corners.

25 Q. Why would you want to do that?

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1 A. Because I was going the speed limit.
2 Certain cars can't go 55 around a corner and a
3 motorcycle can.

4 Q. How do you know you were going the
5 speed limit?

6 A. I don't.

7 Q. You just said you were going the speed
8 limit around the corners.

9 A. I was giving you an example.

10 Q. How many vehicles did you pass before
11 you reached Highway 126?

12 A. I passed the undercover Camaro, solid
13 blacked out with black tinted -- illegally tinted
14 windows, and I passed another car in front of
15 that. And then I passed the infamous Honda after
16 they were waving me to pass them. Because they
17 were going far below the posted speed limit, I
18 assumed that something was either wrong with their
19 vehicle or they wanted to follow me.

20 Q. You think the -- Captain Edwards's car
21 had illegally tinted windows?

22 A. Yeah.

23 Q. Why do you say that?

24 A. Because you can't see through them.
25 Usually on a motorcycle, if you're following

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1 somebody, you can see their mirror and see if the
2 person in the car is smoking a cigarette, talking
3 on a phone, playing with their radio. I was
4 never -- I was once behind Officer Edwards and I
5 passed him and I couldn't see in.

6 Q. After you passed Captain Edwards --

7 A. It was a beautiful day too. There was
8 no reason why I shouldn't have been able to see
9 him.

10 Q. You think your not being able to see
11 him had anything to do with the accident?

12 A. It had something to do with him making
13 it known that he's a police officer.

14 Q. You think --

15 A. I've never seen a Camaro cop car in my
16 life.

17 Q. You think it's Captain Edwards's fault
18 that you didn't see that he was a police officer?

19 A. I think it's Oregon State Police's
20 fault for putting a car like that out to protect
21 people and do their job. He was in a low-profile
22 Camaro with very little lights alerting people
23 that he's trying to pull them over.

24 Q. If you were obeying the law, why would
25 you be worried about whether you would see police

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1 officers or not?

2 A. Can you say that again?

3 Q. If you were obeying the law, why would
4 you be concerned whether you could see into
5 Captain Edwards's vehicle or not?

6 A. Because I'm looking out for my safety,
7 as I stated before. Someone could be on the
8 phone, smoking a cigarette, playing with their
9 radio, kissing their girlfriend, adjusting their
10 pants, putting their seatbelt on. The list goes
11 on and on.

12 When you ride a motorcycle, you have
13 to be completely aware of everything, birds
14 flying, gravel on the road, someone checking their
15 mail. I've almost ran into coyotes, geese,
16 turkeys, a bear.

17 You take your eyes off the road for
18 one minute and it could kill you. That's
19 something they trained us in motorcycle training.
20 When you go through Pacific Super Sport Rider
21 classes, you go through three channels of people
22 or of professionalism, you know, like an A, B, and
23 C. And you graduate to the next one as to how
24 safe you can be or how safe a driver you are.

25 And that is the first thing that they

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1 tell you in your first course is to not take your
2 eyes off the road. So that's how I ride a
3 motorcycle. I drive defensively.

4 Q. Where did you get your motorcycle
5 training through?

6 A. There's a few variety of courses,
7 Portland's -- or Pacific Super Sport Riders.
8 Another one is MotoFit group.

9 Q. When did you do that training?

10 A. Like I said, at Portland International
11 Raceway. That was around eight years ago. I
12 don't know.

13 Q. You did it through Pacific Super Sport
14 Riders?

15 A. Yep. Well, that was one of them. You
16 just show up and you get -- you start off on the
17 first group and you're only allowed to go certain
18 speeds, and you're only allowed to pass on certain
19 points. And the further you progress, the more
20 limitations are taking -- or taken off so you can
21 pass.

22 And, you know, you get in the best
23 group with the guys that have proven their
24 professionalism and then you can graduate into
25 that class.

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1 Q. How long is the class that you took?

2 A. Each one usually goes a day to two
3 days, you know. You go for the whole day. Some
4 guys will be stuck in the C group for weeks
5 because they just don't figure it out. Some guys
6 are going there just to learn how to handle their
7 motorcycles better.

8 Q. How many days of instruction or
9 training did you have on using your motorcycle?

10 A. I can't remember.

11 Q. What's your best estimate of the
12 number of days that you had?

13 A. I can't remember.

14 Q. Is it like more than one day?

15 A. Yeah.

16 Q. Is it more than two days?

17 A. Yeah.

18 Q. Is it more than five days?

19 A. I don't know. I can't remember. That
20 was a long time ago.

21 Q. It's your best estimate that you had
22 training for riding your motorcycle sometime --
23 some -- somewhere between two and five days total?

24 A. More than that. I'm guessing. I just
25 don't remember. It was a long time ago. It was

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1 three classes per riding school.

2 Q. And the riding schools are A, B, and
3 C?

4 A. Well, yeah. You don't want to put --
5 there's guys out there that know what they're
6 doing with the guys that don't know what they're
7 doing you can cause an accident, because the guys
8 are going slower than the fast guys.

9 Q. Did you start off in the C group?

10 A. Everybody does.

11 Q. And then you did the number of days,
12 however many you did, and graduated to the
13 B group?

14 A. The instructors make that decision.
15 Like I said, some guys will stay there for weeks,
16 because the instructors don't feel like they're
17 good enough to move on.

18 Q. Did you graduate into the B group?

19 A. I graduated into the top group, the --
20 (Reporter inquiry.)

21 THE WITNESS: The most mature group,
22 I guess you could say. Had complete control of
23 their motorcycles, because the instructors do not
24 allow guys -- amateurs to go out there with the
25 fast guys because they can cause an accident.

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1 It's the safest place you can learn how to ride a
2 motorcycle. There's flaggers on all corners.
3 There's paramedics on-site. If anyone even drops
4 a bolt off their motorcycle they flag the track so
5 that no one hits the bolt and gets in an accident.

6 BY MS. VAN METER:

7 Q. In your days of instruction in riding
8 your motorcycle, did they teach you that it's
9 important to follow the posted speed limit?

10 A. My instruction was for on a track
11 where there aren't any posted speed limits. They
12 only tell you when and when -- when you can pass
13 and when you can't.

14 Q. Did you have a motorcycle endorsement
15 on your driver's license?

16 A. Absolutely.

17 Q. And did you take a course in order to
18 get that?

19 A. Absolutely.

20 Q. And did you pass that course?

21 A. Well, I took the DMV class. I never
22 went to the class they offer at Lane. I went to
23 the classes with -- through Pacific Super Sport
24 Riders and MotoFit.

25 Q. What class did you take to get your

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1 A. Everybody does.

2 Q. Is that a yes or a no?

3 A. Yeah.

4 MS. REGAN: You've got to listen to
5 her question and answer just her question. She
6 was asking you at that motorcycle class whether
7 that was part of the instruction. So don't answer
8 in generals. Answer to her specific question.

9 A. I'm just getting confused on like the
10 DMV versus my other motorcycle classes, I guess
11 I've taken, that aren't -- it wasn't a class. It
12 was like proving to the instructor or whatever
13 that you have control of your vehicle. Did that
14 help -- does that -- I mean, I guess I'm guessing
15 confused.

16 MS. VAN METER: I'll ask another
17 question.

18 THE WITNESS: I'm getting confused
19 on what -- if you're asking about the DMV or if
20 you're asking about my instruction -- my
21 instructors at the private tracks or whatever. I
22 mean --

23 BY MS. VAN METER:

24 Q. When was the first time you noticed
25 that there was a police car behind you?

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1 A. When I was decelerating and
2 approaching the stoplight.

3 Q. Which stoplight?

4 A. Highway 126 and Crow Road.

5 Q. Why did it take you so long to notice
6 there was a police car behind you?

7 A. Well, because during the first part of
8 him being behind me, he didn't have his siren on,
9 and the second part I have -- my motorcycle's
10 loud. And my mirror vibrates.

11 Can you answer -- can you ask that
12 question once more, please.

13 MS. VAN METER: Can you read it
14 back?

15 (The question was read back
16 as follows:)

17 "QUESTION: Why did it take you
18 so long to notice there was a police car
19 behind you?"

20 A. It took a long time because I didn't
21 see a police officer behind me. I didn't see him,
22 hear him, anything, until I was approaching the
23 stoplight.

24 I did not see any lights. I did not
25 hear any sirens. I wish I would have. I wish he

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1 would have had his sirens on when I slowed down
2 for this Honda, because this whole situation would
3 have -- we would not be in this situation.

4 When I noticed he was trying to pull
5 me over, I pulled over. The safest possible spot
6 I could. I used my turn signal, came to a stop.
7 I put both feet on the ground. I don't know what
8 else you're supposed to do when you realize you're
9 getting pulled over. That's what the law told me
10 to do and that's what I did.

11 I was expecting a speeding ticket, not
12 to be run into and kicked.

13 BY MS. VAN METER:

14 Q. Do you think you have any
15 responsibility for the reason that you were pulled
16 over?

17 A. I think the officer didn't do his
18 responsibility of trying to prove to the person he
19 was trying to pull over that he wasn't doing his
20 job.

21 Q. Were you doing your job as a
22 motorcycle rider?

23 A. I pulled over when I noticed he was
24 trying to pull me over. I was doing my job the
25 way that everybody else does.

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1 Q. Do you believe you did anything to
2 cause you to be pulled over?

3 A. I passed one car in a spot where I was
4 on that corner, when I approached that corner,
5 coming up on the Camaro. I've driven that road
6 for many, many, many, many years. I know that
7 road very well. I know where the log trucks go
8 slow. I know where the bikers bike four deep --
9 four wide in the middle of the road.

10 Approaching that corner, you can see
11 almost a mile down the road. So when I passed the
12 Camaro, I already knew that car that I was coming
13 up on, there was plenty of room and it was safe to
14 pass them, because I could see. I wasn't -- I
15 wasn't putting anyone in danger.

16 And that's why I slowed down for the
17 Honda in the S-turns, because that was the spot
18 where people -- if you're passing them in there,
19 you're taking unneeded chances. You're putting
20 people at risk. And that's why I slowed down.

21 Q. The vehicles that you passed on
22 August 3rd, 2012, on Crow Road, was it all in
23 places where it was legal to pass?

24 A. One car I passed. The second car I
25 passed on a yellow line, even though I knew there

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1 A. Yes. I've been trying to do that the
2 whole time.

3 Q. Going back to where we were, do you
4 agree that one of the passes that you made of a
5 vehicle was illegal on August 3rd, 2012?

6 A. Yes.

7 Q. Did you do anything else that was
8 illegal?

9 A. The car that I passed, it was a yellow
10 line, but the occupants were waving me forward.
11 So I'm not sure what I was supposed to do.
12 Anybody else, if there's not a car coming in the
13 oncoming lane, they would pass them as well.

14 Q. My question was did you do anything
15 else illegal on August 3rd, 2012?

16 A. I feel like I didn't.

17 Q. Is that a yes or a no?

18 A. I feel like I was doing what I was
19 supposed to be doing. I pulled over when I was
20 alerted to pull over. I passed the car on a
21 double yellow. That was -- that was -- I wasn't
22 supposed to do that under the terms of the law.

23 Q. What were you wearing?

24 A. A safety jacket and gloves and helmet.

25 Q. And your gloves attached with Velcro?

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1 guess I'm confused by "couldn't understand who I
2 was when I passed." Like I was just a person on a
3 motorcycle. Doesn't matter if I'm black, white,
4 green, or purple, neither male or female.

5 Q. Do you know why Captain Edwards was
6 patrolling in the area prior to pulling you over?

7 A. No. On the paper it said he was
8 looking for a bank robber, and there's no banks
9 around there.

10 Q. At the time Captain Edwards pulled you
11 over was there any way for him to know whether you
12 were armed or not --

13 A. No.

14 Q. -- at the time?

15 A. He couldn't even get my license plate
16 number.

17 Q. Why is that?

18 A. I don't know.

19 Q. Did you have a license on your
20 motorcycle?

21 A. Of course.

22 Q. What size is the license plate on your
23 motorcycle?

24 A. It's the same size everyone gets on
25 their motorcycle. I don't know the exact

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1 A. I think he didn't take into
2 consideration that my motorcycle's loud and that I
3 didn't see him.

4 Q. What do you think you did wrong on
5 August 3rd, 2012?

6 A. I passed somebody on the solid yellow
7 line.

8 Q. Is that all?

9 MS. REGAN: Is that all Edwards did
10 wrong she's asking.

11 MS. VAN METER: No. I'm asking if
12 that's all he did wrong.

13 A. Well, I mean, yeah. I passed --
14 that's what instigated him, I believe, to follow
15 me, because I passed that car on a solid yellow
16 line.

17 BY MS. VAN METER:

18 Q. My question is, is that all you did
19 wrong on August 3rd, 2012?

20 A. Yeah.

21 Q. And then Captain Edwards's car struck
22 the back of your motorcycle. Correct?

23 A. Yes.

24 Q. What rate of speed were you going at
25 the time of this collision?

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1 A. Stopped.

2 Q. What rate of speed was Captain Edwards
3 going at the time of the collision?

4 A. I don't know. He was behind me.

5 Q. Did you not see him behind you?

6 A. Of course I did. That's why I
7 stopped.

8 Q. Do you agree that motorcycles can stop
9 faster than cars?

10 A. They're smaller. Of course they can.

11 Q. Did you give Captain Edwards any
12 indication or way to know that you were going to
13 stop?

14 A. My taillight works just fine and my
15 turn signal. I don't know how else to pull over
16 when someone's trying to pull you over, when a
17 police officer is. I mean, what am I supposed to
18 do, drive it in the ditch? There's nowhere to
19 pull over right there. There's the white line and
20 then the gravel falls straight down in the ditch.

21 Q. You agree that there was a dark car
22 that was following you. Is that right?

23 A. I could see that there was a car
24 behind me.

25 Q. You just didn't know it was

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1 Captain Edwards?

2 A. No. I assumed that it was the Honda,
3 because when I -- just didn't think anyone was
4 behind me. Except for that Honda. Because I
5 passed all the cars.

6 Q. And how long were you riding with this
7 dark car behind you?

8 A. Probably a couple miles, maybe more.

9 Q. How many minutes?

10 A. Less than ten. By far. I don't know.

11 Q. What happens when Captain Edwards's
12 car collided with your motorcycle?

13 A. It -- the inertia of his vehicle
14 pushed my motorcycle forward and knocked the rear
15 wheel out from underneath it. And then the
16 motorcycle fell to the left and I jumped out of
17 the way of the motorcycle and rolled forward,
18 something somebody wouldn't expect when they're
19 getting pulled over.

20 Q. Were you injured?

21 A. When he hit me?

22 Q. Yes.

23 A. No. I rolled right out of it. I
24 stood up in amazement, shock. I was -- most
25 people, when they see police lights, their

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1 adrenaline kicks on. It's just how it goes. And
2 so when I saw that cop behind me with his lights
3 on my adrenaline started pumping and I pulled
4 over.

5 And when I stood up, his siren was
6 blazing, and he was pointing his gun at my head,
7 and I couldn't hear him because I had a helmet on.
8 And the siren was louder than loud and the
9 motorcycle -- the car was practically on top of
10 me.

11 Q. The car wasn't actually on top of you.
12 Correct?

13 A. No.

14 Q. Then what happened?

15 A. Well, I was in shock. I stood up. I
16 expected -- in all honesty, I expected an apology
17 for him hitting me, because I thought it was an
18 accident. So when I stood up, I was in shock that
19 he was pointing a gun at my head. And I couldn't
20 hear him.

21 Q. Then what?

22 A. So I -- I honestly thought he was
23 pointing -- I couldn't believe he was pointing the
24 gun at me. So I -- you know, from watching movies
25 and everything else, I slowly started getting down

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1 on the ground, because I assumed that was the best
2 thing to do.

3 So I was putting my hands out, looking
4 down on the ground, like anyone would do if
5 they're trying to get down on their chest. And as
6 I was doing that, he kicked me while I had my
7 hands up. And I was trying to get down on the
8 ground.

9 Q. Why do you think he kicked you?

10 A. Because he lost his composure. He
11 didn't think about all the things about why a
12 motorcycle possibly would not hear a police
13 officer or see an undercover black Camaro.

14 Q. What happened next?

15 A. After that I went down on the ground
16 and he jabbed his knee into my back I don't know
17 how many times. He was pretty wound up. He
18 grabbed my arms forcibly and put them behind my
19 back and handcuffed my hands extremely hard. Like
20 he was very angry. He -- he scared me, because he
21 was -- I felt like he wasn't doing his job.

22 I normally don't have guns pointed at
23 my head. I'm not a violent person.

24 Q. Then what?

25 A. After I was in handcuffs, the siren

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1 was still going and he was yelling at me in
2 amazement that I didn't see him. And I told him
3 very respectfully that I did not see him. Over
4 and over I said, "Sir, I never saw you, sir."
5 Multiple times.

6 I was not being a threat. I wasn't --
7 I was just trying to abide by the law and make the
8 situation -- you know, just trying to be the best
9 citizen I could.

10 Q. What did Captain Edwards say to you?

11 A. He told me that I looked over my right
12 shoulder multiple times and saw him, which is not
13 true at all.

14 Q. You saw a dark car?

15 A. I saw a car in my vibrating mirror. I
16 thought it was the Honda.

17 Q. What else did you say to each other?

18 A. After he had me in handcuffs, he got
19 back in his car and turned the sirens off. And
20 then he -- it was like 95 degrees out and I asked
21 him to open up my visor on my helmet because it
22 was really hot. And I couldn't do it because my
23 hands were in handcuffs.

24 And I was in a lot of pain.

25 Q. Do you --

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1 the bones separated. Is that right?

2 A. Yeah.

3 Q. Other than the broken collarbone, did
4 you have any other injuries?

5 A. Yeah. He broke ribs.

6 Q. How many?

7 A. I think there was at least two.

8 Q. Same place, next to the collarbone or
9 somewhere else?

10 A. I'm not exactly sure.

11 Q. Has anyone diagnosed you with broken
12 ribs?

13 A. The hospital did after x-rays. They
14 noticed the marks on my wrist, too, from the
15 handcuffs.

16 Q. Did you have any injuries from the
17 handcuffs?

18 A. There were marks on my arms. They
19 noted them at the hospital.

20 Q. Were you injured by the handcuffs?

21 A. I had bruising on my wrists.

22 Q. How long did that take to go away?

23 A. I couldn't tell you. It was the least
24 of my worries.

25 Q. Was it gone within a week?

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1 so when you have your adrenaline pumping through
2 you, I was in shock. So I'm trying to recollect
3 to the best of my ability.

4 Q. Do you need more time to answer that
5 question?

6 A. I'm -- no. I don't think so.

7 Q. You don't think you need more time?

8 A. I believe that I answered your
9 question to the best of my ability.

10 Q. Have you now fully described all of
11 your interactions and communications with
12 Captain Edwards on August 3rd, 2012?

13 A. Yeah.

14 Q. Did you ever pay your citations?

15 A. They went away.

16 Q. In what way did they go away?

17 A. They never -- I never had to go to
18 appear in court.

19 Q. Did you retain a criminal defense
20 attorney?

21 A. Yeah.

22 Q. And you're claiming those bills as
23 damages in this case?

24 A. Yeah.

25 Q. And you're claiming the almost \$10,000

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<p style="text-align: right;">53</p> <p>1 going wrong with the car, and then they would get</p> <p>2 it to an outside source to fix those issues.</p> <p>3 Q. Okay. Are officers assigned a</p> <p>4 particular vehicle that's sort of theirs when</p> <p>5 they're on shift?</p> <p>6 A. Typically, yes.</p> <p>7 Q. Okay. And in August of 2012, did you</p> <p>8 have a vehicle that was assigned to you?</p> <p>9 A. Yes.</p> <p>10 Q. And was that the Camaro at issue on</p> <p>11 August 3rd?</p> <p>12 A. No.</p> <p>13 Q. Okay. What was the vehicle that was</p> <p>14 normally assigned to you?</p> <p>15 A. My assigned vehicle was a Dodge</p> <p>16 Charger.</p> <p>17 Q. Okay. And why -- was there any</p> <p>18 particular reason that you were assigned to that</p> <p>19 vehicle, the Dodge Charger?</p> <p>20 A. The lieutenant who got the job gets</p> <p>21 that car.</p> <p>22 Q. Okay.</p> <p>23 A. It's unmarked. It's just a blue Dodge</p> <p>24 Charger. And that's the one that, when I became</p> <p>25 lieutenant, was assigned to me.</p>	<p style="text-align: right;">55</p> <p>1 Q. Okay.</p> <p>2 A. Drove my personal vehicle to work that</p> <p>3 day I'm assuming because I had a meeting or had to</p> <p>4 do something or pick my girl up from school or</p> <p>5 something.</p> <p>6 Q. Okay.</p> <p>7 A. So I did not have my assigned car.</p> <p>8 Q. Okay. So how did you end up driving</p> <p>9 the Camaro that day?</p> <p>10 A. Something occurred. I decided I need</p> <p>11 to go look for some bank robbery suspects, and I</p> <p>12 grabbed the keys to that car to drive -- two</p> <p>13 reasons. It was easily available. The keys are</p> <p>14 in the box, in the assigned ADEP box.</p> <p>15 Two, the location I was going to go to</p> <p>16 look for these bank robbery suspects was very</p> <p>17 rural and I wanted to blend in in the parking lot</p> <p>18 to watch an intersection. I didn't want to be in</p> <p>19 a marked unit.</p> <p>20 (Reporter inquiry.)</p> <p>21 THE WITNESS: A -- aggressive</p> <p>22 driving enforcement program. ADEP.</p> <p>23 BY MS. REGAN:</p> <p>24 Q. Had you ever driven the Camaro prior</p> <p>25 to August 3rd?</p>
<p style="text-align: right;">54</p> <p>1 Q. Okay. Is there something about the</p> <p>2 rank of lieutenant that is tied to the unmarked</p> <p>3 vehicle?</p> <p>4 A. Yes.</p> <p>5 Q. And can you explain what that is?</p> <p>6 A. The Charger which I was assigned to as</p> <p>7 a lieutenant didn't have a cage. It had cloth</p> <p>8 back seats. And the main reason for that is the</p> <p>9 lieutenant's not out very often patrolling. He'd</p> <p>10 be more apt to use that vehicle taking a couple</p> <p>11 sergeants to lunch or going to a meeting and</p> <p>12 putting the deputy district attorney or the</p> <p>13 sheriff in his car and going to lunch, going to</p> <p>14 meetings.</p> <p>15 So it's more of a commuter transport</p> <p>16 vehicle versus a traffic enforcement car.</p> <p>17 Q. Okay. So how -- how did you end up in</p> <p>18 the Camaro on August 3rd?</p> <p>19 A. To the best of my recollection, I</p> <p>20 believe I had some type of -- I left my assigned</p> <p>21 Charger at home and I drove my personal vehicle to</p> <p>22 work that day.</p> <p>23 Q. Because you normally would take the</p> <p>24 Charger home with you?</p> <p>25 A. Normally I would, yes.</p>	<p style="text-align: right;">56</p> <p>1 A. Yes.</p> <p>2 Q. And with some amount of regularity or</p> <p>3 what -- how -- what would you say your frequency</p> <p>4 of driving it was?</p> <p>5 A. Once a month maybe. Once every six</p> <p>6 weeks.</p> <p>7 Q. Okay. And what was the context or the</p> <p>8 reason that you would be driving it about once a</p> <p>9 month?</p> <p>10 A. To go out on patrol.</p> <p>11 Q. Okay. So is it accurate to say that</p> <p>12 when you were performing patrol duties you would</p> <p>13 use the Camaro?</p> <p>14 A. Occasionally. Not always, but</p> <p>15 sometimes, yes.</p> <p>16 Q. Occasion. And just for purposes of</p> <p>17 our record, is there only one Camaro or should we</p> <p>18 further define that?</p> <p>19 A. No. There's just one.</p> <p>20 Q. Okay. And when you took the Camaro on</p> <p>21 August 3rd, did you perform any inspection or</p> <p>22 review of it to ensure that it was in safe working</p> <p>23 order?</p> <p>24 A. I did not.</p> <p>25 Q. Okay. Did you feel like you were</p>

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1 familiar with the operations and the way that that
 2 car drives -- drove?
 3 A. Yes.
 4 Q. Okay. Have you ever been in that
 5 vehicle on any other high-speed situations?
 6 A. Every time we drive it.
 7 Q. Okay. And explain why that is.
 8 A. When you work a traffic enforcement,
 9 and you get somebody going 80, you turn around and
 10 catch up to them, you've got to drive 100-plus
 11 miles per hour to catch up to them. So almost on
 12 a daily basis when you drive that car, you drive
 13 it at high speeds.
 14 Q. Okay. And does that also hold true
 15 for the Charger?
 16 A. Yes.
 17 Q. Okay. Is there anything different
 18 about driving the Camaro than driving the Charger
 19 or driving another patrol vehicle?
 20 A. Anything different? Sure. There's
 21 obviously differences. They're a different type
 22 of car. I would say your -- your visibility out
 23 of the Camaro, especially out of the back, isn't
 24 near as good due to the type of wind -- the back
 25 window has. The visibility out of your Charger is

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1 better.
 2 They do handle a little bit different.
 3 They -- you know, power-wise, they're not nearly
 4 as powerful as our Chargers. The Camaro has a V6
 5 versus the powerful V8s that our Chargers have.
 6 Q. Okay. Are there any mod -- other
 7 modifications to the Camaro that are used for
 8 police work?
 9 A. Typically just a radio, a roll bar,
 10 and a bunch of red and blue lights on it. And a
 11 siren.
 12 Q. Okay. So the tires on the Camaro, are
 13 they standard tires for a Camaro?
 14 A. Speed-rated tires, yes.
 15 Q. Okay. Is there anything modified with
 16 regard to the braking system?
 17 A. I don't believe so.
 18 Q. So there's no button inside the
 19 vehicle that you press to assist with brake fade
 20 or anything like that?
 21 A. No.
 22 Q. Okay. And do you recall where the
 23 lights are located on the Camaro?
 24 A. I believe they are down on the center
 25 console. It's a toggle switch or buttons, but

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1 down on the center console.
 2 Q. So kind of where the shift would be?
 3 A. Just forward of that, yes.
 4 Q. And there is -- I think you said a
 5 switch or a button that you hit to make them
 6 function?
 7 A. That's correct.
 8 Q. Okay. And what about the siren?
 9 Where would the siren button be located?
 10 A. Same location.
 11 Q. Okay. And where are the actual lights
 12 physically located on the outside of the vehicle?
 13 A. In the grille, in the front
 14 windshield, and on the outside near the
 15 headlights.
 16 Q. Okay. So the grille, I assume you
 17 mean one on each side, sort of near where the
 18 headlights would be located?
 19 A. I'd have to look at your pictures to
 20 tell exactly where they're at.
 21 Q. You're welcome to.
 22 A. So you've got a red and blue light in
 23 the top of the windshield. You've got red and
 24 blue lights in the grille. You also have red and
 25 blue lights down near the spoiler.

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1 Q. And can you be more specific? Is
 2 there one red light and one blue light on each
 3 side or how -- can you give me a little more
 4 detail if you recall?
 5 A. I don't recall.
 6 Q. Okay.
 7 A. Based on the photos and based on my
 8 memory, I -- I haven't seen the front of this car
 9 with its lights on in a long time. So I know you
 10 got a red and blue light for sure on the top of
 11 the windshield. I believe you got a -- I think
 12 you might have red and blue lights on both sides
 13 of the grille, both sides of the Chevy emblem.
 14 You also --
 15 Q. Meaning near the center, like on
 16 either side of the license plate?
 17 A. No. On the outside.
 18 Q. Oh, I see. Okay.
 19 A. Near the headlights.
 20 Q. Okay.
 21 A. You're also going to have headlights,
 22 called a wig-wag. Your headlights are going to be
 23 fluctuating on and off also.
 24 Q. Your headlights themselves?
 25 A. The headlights themselves.

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1 violation. You ask for driver's license,
2 registration, insurance. Make a determination if
3 you want to issue that person a citation and/or
4 verbal warning. Make your determination.

5 And sometimes check them through LEDS
6 and NCIC for their driving status and wants check.
7 Sometimes not. And then make your determination
8 to issue the citation or the warning and allow
9 them to be on their way.

10 Q. Okay. And so is there a procedure
11 that you radio in to dispatch prior to turning on
12 your lights as you had just described?

13 A. In a perfect world, yes. Sometimes
14 you turn your lights on first, get them to slow
15 down, so you can get close enough to see the
16 license plate, and then you can call out the
17 license plate at the same time that they're
18 yielding to the side of the road.

19 Q. Okay.

20 A. But either way is fine.

21 Q. Okay. And what about the use of a
22 siren in that scenario? You didn't really mention
23 turning on the siren or using the siren. Is there
24 any rule or training or policy regarding the use
25 of the siren?

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1 A. On a standard traffic stop?

2 Q. Yes.

3 A. No need.

4 Q. No need to use a siren?

5 A. No.

6 Q. Okay. And is there anything -- as
7 you're engaging in a traffic stop, is there any
8 time where a siren would be required?

9 A. Not that I can think of.

10 Q. Okay.

11 A. I'm sure there's a million scenarios
12 maybe, but I can't think of one right now. For
13 your standard run-of-the-mill traffic stop there's
14 no need to engage your siren.

15 Q. Okay. And would that change if you
16 were engaging in a high-speed chase?

17 A. Yes.

18 Q. And how would it change?

19 A. Department policy says you got to have
20 your siren on.

21 Q. And when would it be -- when would you
22 be required to utilize the siren?

23 A. When you've made a determination that
24 you're in pursuit of and/or feel that the person
25 is failing to yield, you might be getting -- you

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1 might get behind a little old lady who doesn't see
2 you. Might be trying to activate your siren a
3 time or two to get their attention. They may then
4 pull over, shut your siren off. Or if they don't
5 stop, continue to fail to yield, and/or attempt to
6 elude, you keep your siren on.

7 Q. Okay. So just to make sure that I'm
8 understanding, you are allowed to use high speed
9 yourself in trying to catch up to a speeder
10 without turning on -- without activating the
11 siren?

12 A. That's correct.

13 Q. Okay. And the use of the siren would
14 only be required if you needed a non-suspect
15 vehicle to yield to you, like the old lady
16 scenario you explained, so you would utilize your
17 siren in that circumstance?

18 A. You could, yes.

19 Q. Would it be required or it's
20 discretionary?

21 A. Discretionary.

22 Q. Okay. And I believe your testimony
23 also was that if the speeder -- if the target
24 suspect failed to pull over after utilizing the
25 lights, then you would activate the siren. Is

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1 vehicle, but you're in pursuit of time trying to
2 get to a house, trying to get to someplace to help
3 somebody, you need to use your siren if you're
4 driving what we would call code 3, which is your
5 lights and siren, if you're trying to get people
6 out of your way to get somewhere quickly.

7 Q. Okay.

8 A. Those are the -- you've got to use
9 your siren if you're going to run code 3 or if
10 you're in pursuit of a vehicle.

11 Q. Okay. So is code 3 also -- does
12 code 3 include pursuit of a vehicle or are those
13 two distinct areas? Is pursuit of a vehicle a
14 code 3?

15 A. Yeah.

16 Q. Okay.

17 A. They're one and the same, even though
18 they kind of have different -- you know, contexts.
19 But, yeah, they're one and the same.

20 Q. Okay.

21 A. You're in pursuit of a motor vehicle,
22 you've got to have your lights and sirens going.

23 Q. Okay. I have a recollection from the
24 record that there was some form of admonishment or
25 something that you received for failing to use

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<p style="text-align: right;">133</p> <p>1 quarter mile, maybe a little more. Maybe up to –</p> <p>2 trying to catch up to him, trying to get a pace,</p> <p>3 quarter mile, maybe a little more than that. Half</p> <p>4 mile.</p> <p>5 Q. Okay. So between a quarter mile and a</p> <p>6 half mile, at the time that you turned on your</p> <p>7 lights, do you have an approximate distance that</p> <p>8 you could provide between you and the motorcycle?</p> <p>9 A. I don't. I'd have to watch the</p> <p>10 videotape. I don't recall how far ahead he was at</p> <p>11 the time I activated my lights.</p> <p>12 Q. Okay. And what was your reason for</p> <p>13 activating your lights at that time?</p> <p>14 A. Trying to initiate a traffic stop on</p> <p>15 him for passing in a no-passing zone and speeding.</p> <p>16 Q. Okay. And your vehicle didn't have</p> <p>17 radar in it. Correct?</p> <p>18 A. I believe it did. I believe it does.</p> <p>19 Q. Okay. Did you utilize the radar on</p> <p>20 August 3rd?</p> <p>21 A. I did not.</p> <p>22 Q. Why?</p> <p>23 A. The type of radar we had at that time</p> <p>24 would have been useless. I -- it only would catch</p> <p>25 vehicles coming towards me.</p>	<p style="text-align: right;">135</p> <p>1 We'll watch the video.</p> <p>2 A. Let's watch the video. I don't recall</p> <p>3 if there was a dark-colored Honda. We -- we end</p> <p>4 up passing two cars.</p> <p>5 Q. Okay.</p> <p>6 A. A pickup -- or a small pickup truck, I</p> <p>7 believe, and then a passenger vehicle.</p> <p>8 Q. Do you recall either of those vehicles</p> <p>9 making some kind of signal to Mr. Wilkens to go</p> <p>10 around them?</p> <p>11 A. I wasn't watching the drivers of the</p> <p>12 other vehicles at that time, no.</p> <p>13 Q. Okay. And at the time that</p> <p>14 Mr. Wilkens passed the first vehicle, do you</p> <p>15 recall whether or not there were any other</p> <p>16 vehicles coming toward him or, you know, was</p> <p>17 the -- the pass done in a safe manner despite the</p> <p>18 fact that it may have been a double yellow?</p> <p>19 A. I have difficulty saying it was in a</p> <p>20 safe manner when it's in a no-passing zone, so</p> <p>21 it's my opinion it was unsafe.</p> <p>22 Q. Okay. But there was no oncoming</p> <p>23 traffic. Correct?</p> <p>24 A. That's correct.</p> <p>25 Q. And do you recall whether or not the</p>
<p style="text-align: right;">134</p> <p>1 Q. I see. Okay. How about was there a</p> <p>2 VASCAR unit in the vehicle?</p> <p>3 A. No.</p> <p>4 Q. Okay. And what about a LIDAR system?</p> <p>5 A. No.</p> <p>6 Q. And so was your method for determining</p> <p>7 excessive speed pacing?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And when you mentioned that</p> <p>10 there was about a quarter mile to a half mile</p> <p>11 before you turned on your lights, were you</p> <p>12 attempting or did you actually pace Mr. Wilkens's</p> <p>13 motorcycle during that time period?</p> <p>14 A. I did. I was attempting to get an</p> <p>15 accurate pace.</p> <p>16 Q. Okay. And what was your estimate at</p> <p>17 that time?</p> <p>18 A. I never got an accurate pace. I know</p> <p>19 I got to 80 miles per hour and he was still</p> <p>20 pulling away from me. So if I'm going 80, and</p> <p>21 he's going -- increasing the distance, common</p> <p>22 sense tells me he's going in excess of 80.</p> <p>23 Q. Okay. There was a time period where</p> <p>24 he came upon a vehicle that was like a</p> <p>25 dark-colored Honda. Do you recall that vehicle?</p>	<p style="text-align: right;">136</p> <p>1 motorcycle slowed before passing the first</p> <p>2 vehicle?</p> <p>3 A. I believe it did. We were also into</p> <p>4 the curves, so I don't know if he slowed to pass</p> <p>5 it or slowed because we were in curves, but he did</p> <p>6 slow.</p> <p>7 Q. Okay. And with the second vehicle, do</p> <p>8 you recall him slowing down quite a bit before</p> <p>9 passing that vehicle?</p> <p>10 A. Yes.</p> <p>11 Q. Would -- would it be accurate to say</p> <p>12 that he slowed down between 45 and 55 miles per</p> <p>13 hour?</p> <p>14 A. I believe that would be accurate, yes.</p> <p>15 Q. And during that time period, were you</p> <p>16 able to close the distance between yourself and</p> <p>17 him?</p> <p>18 A. I was.</p> <p>19 Q. And were you able to read the license</p> <p>20 plate number?</p> <p>21 A. No.</p> <p>22 Q. And why was that?</p> <p>23 A. I don't believe I got close enough to</p> <p>24 read the license plate. And I also believe the</p> <p>25 license plate was kind of canted upwards, which</p>

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<p style="text-align: right;">137</p> <p>1 would have made it that much more difficult to</p> <p>2 read it.</p> <p>3 Q. Okay. Were there any issues with the</p> <p>4 Camaro's dashboard -- not dashboard -- windshield</p> <p>5 in terms of your ability to see the license plate?</p> <p>6 A. No.</p> <p>7 Q. And did you activate your lights prior</p> <p>8 to Mr. Wilkens passing either of those two</p> <p>9 vehicles?</p> <p>10 A. I'd have to watch the video for sure,</p> <p>11 but I believe I activated my lights shortly after</p> <p>12 he passed the first pickup truck. Because I think</p> <p>13 I had to turn my lights on to help get the pickup</p> <p>14 truck out of my way so I could get around him.</p> <p>15 Q. Okay. And do you recall when in the</p> <p>16 pursuit you then activated your siren?</p> <p>17 A. Approximately shortly before or</p> <p>18 shortly after going around the second vehicle.</p> <p>19 Q. Okay. And the video that we have of</p> <p>20 this incident doesn't create -- doesn't have any</p> <p>21 audio. Is that correct?</p> <p>22 A. That's correct.</p> <p>23 Q. Do you know why?</p> <p>24 A. Because the system at that time, for</p> <p>25 lack of a better word, was a piece of junk.</p>	<p style="text-align: right;">139</p> <p>1 occurs automatically?</p> <p>2 A. It occurs automatically. Well, both.</p> <p>3 You can manually activate them, but also when you</p> <p>4 activate your red and blue lights, they'll go back</p> <p>5 a certain period of time and then start recording.</p> <p>6 Q. Do you know how far it will go back?</p> <p>7 A. On that system, no.</p> <p>8 Q. So you activate your lights and that</p> <p>9 activates the camera. But what do you mean it</p> <p>10 then goes back? How does it record back in time?</p> <p>11 A. It's got a hard drive, which is</p> <p>12 constantly video-ing, and when the lights or a</p> <p>13 trigger activates the camera, in this case, the</p> <p>14 lights and/or the siren, it will go back into the</p> <p>15 hard drive one, two minutes. I'm not sure how</p> <p>16 long this one was set up for. And then it will</p> <p>17 start recording the event from there through the</p> <p>18 rest of the event.</p> <p>19 Q. Okay. So to make sure I'm</p> <p>20 understanding what you're saying, there is a</p> <p>21 camera and a hard drive that is recording all the</p> <p>22 time that the vehicle is moving?</p> <p>23 A. That's correct.</p> <p>24 Q. And so if you wanted, you could get</p> <p>25 video for your entire drive off of the hard drive?</p>
<p style="text-align: right;">138</p> <p>1 Q. And it just didn't capture audio or it</p> <p>2 was malfunctioning?</p> <p>3 A. It was malfunctioning.</p> <p>4 Q. Okay.</p> <p>5 A. The Department of State Police went to</p> <p>6 a new video camera system. Actually, during that</p> <p>7 time we were actually transitioning to a much</p> <p>8 better, more modern video camera system.</p> <p>9 Q. Okay. Were you aware that the vehicle</p> <p>10 had a video system in it?</p> <p>11 A. Yes.</p> <p>12 Q. And was it your understanding that it</p> <p>13 was or was not functioning?</p> <p>14 A. It's my understanding at that time</p> <p>15 that it wasn't -- it wasn't even working right.</p> <p>16 Wasn't functioning.</p> <p>17 Q. Okay. And so you didn't necessarily</p> <p>18 expect that there was video of the pursuit?</p> <p>19 A. That's correct. I did not believe --</p> <p>20 initially did not believe we had -- I did not</p> <p>21 think that car's video system was working</p> <p>22 properly, so I didn't think we had video of this</p> <p>23 incident.</p> <p>24 Q. Okay. And do you have to hit a button</p> <p>25 to make the video work or is it something that</p>	<p style="text-align: right;">140</p> <p>1 Every -- for every minute that you were driving</p> <p>2 the vehicle, there's a hard drive of footage of</p> <p>3 that?</p> <p>4 A. That is my understanding, yes.</p> <p>5 Q. And then when you activate the lights,</p> <p>6 what does that do that's different than what was</p> <p>7 going on previously?</p> <p>8 A. I think it takes it from a section of</p> <p>9 the hard drive, and it will start burning that</p> <p>10 incident into a different section of the hard</p> <p>11 drive, which is then accessible to the troopers to</p> <p>12 make video -- DVDs of their evidence, of their</p> <p>13 DUIs or other traffic stops.</p> <p>14 Q. Okay. And is that part of the hard</p> <p>15 drive what we commonly call in-car video? Is that</p> <p>16 what we routinely get in discovery for DUIs and</p> <p>17 things of that nature?</p> <p>18 A. I believe so, yes.</p> <p>19 Q. Okay.</p> <p>20 A. Well, which portion of it? Not the</p> <p>21 hard drive, what is it -- it's constantly on the</p> <p>22 loop recording. Typically only supervisors have</p> <p>23 access to that to pull up misdeeds or</p> <p>24 complaints --</p> <p>25 Q. Okay.</p>

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<p style="text-align: right;">141</p> <p>1 A. -- of things that happen that are</p> <p>2 maybe be on or off the video itself.</p> <p>3 So then there's another section of the</p> <p>4 hard drive, which is where your traffic stops,</p> <p>5 your DUI arrests, your drug seizures are formed</p> <p>6 into little categories and sections it out so you</p> <p>7 can go make copies of those for discovery.</p> <p>8 Q. Okay. And is there anything in the</p> <p>9 video system that would indicate when you turn on</p> <p>10 the siren? I'm assuming that the camera turns on</p> <p>11 when you turn on the lights. Is there any way in</p> <p>12 viewing this video that we can determine when you</p> <p>13 actually turn on your siren?</p> <p>14 A. I believe there should be -- there's a</p> <p>15 portion that's on audio with the back -- there's</p> <p>16 two cameras. There's a camera that shoots out the</p> <p>17 back and a camera that shoots out the front</p> <p>18 window. I'm not super familiar with that</p> <p>19 particular audio system but -- or, correction,</p> <p>20 camera system -- but I believe the rear camera</p> <p>21 portion, for whatever reason, does pick up</p> <p>22 portions of audio. And that would -- you would be</p> <p>23 able to hear a siren on -- on the -- be activated</p> <p>24 or you would be able to hear it.</p> <p>25 Q. Okay. And so I think the video that</p>	<p style="text-align: right;">143</p> <p>1 at that particular time period?</p> <p>2 A. It was abundantly clear to me that he</p> <p>3 was attempting to elude me so --</p> <p>4 Q. Okay. All right.</p> <p>5 A. So I was transitioning from a traffic</p> <p>6 stop into a pursuit of a vehicle.</p> <p>7 Q. Okay. And what was your -- explain to</p> <p>8 me why you believe that he was attempting to elude</p> <p>9 you at that time.</p> <p>10 A. I had had my -- I had had my lights on</p> <p>11 for a little while. He already made one bad pass.</p> <p>12 He passes another vehicle at a high rate of speed.</p> <p>13 And I believed that was a no-passing zone also.</p> <p>14 And then accelerating away from me at a very high</p> <p>15 rate of speed.</p> <p>16 Q. Okay. And that demonstrated that he</p> <p>17 was eluding you?</p> <p>18 A. In my eyes, yes.</p> <p>19 Q. Did you make any observation of him</p> <p>20 looking at you or turning to look at you as -- in</p> <p>21 your vehicle?</p> <p>22 A. It's my opinion, yes.</p> <p>23 Q. And what -- what did you observe?</p> <p>24 A. I observed what appeared to me glances</p> <p>25 over his left shoulder.</p>
<p style="text-align: right;">142</p> <p>1 we have received in discovery is the front camera.</p> <p>2 Is the back camera also filming out the back of</p> <p>3 the vehicle as you're driving down the road?</p> <p>4 A. Yes.</p> <p>5 Q. And so is there back camera footage</p> <p>6 that is available that would be picking up audio?</p> <p>7 A. I believe there would be.</p> <p>8 Q. Okay?</p> <p>9 MR. CAMPBELL: You should have that.</p> <p>10 If you don't, let me know. But we have it. I've</p> <p>11 watched it.</p> <p>12 BY MS. REGAN:</p> <p>13 Q. Okay. And then I'm sorry if I asked</p> <p>14 this. I think that your testimony was that you</p> <p>15 believe you turned the siren on either right</p> <p>16 before or right after Mr. Wilkens passed the</p> <p>17 second vehicle. Is that right?</p> <p>18 A. Yes, ma'am.</p> <p>19 Q. Okay. And what do you -- do you have</p> <p>20 any recollection about that second vehicle? You</p> <p>21 know, was it pulling over? Do you recall a</p> <p>22 description of it?</p> <p>23 A. I don't.</p> <p>24 Q. Okay. And I'm sorry if I asked this,</p> <p>25 but what was your reason for turning on your siren</p>	<p style="text-align: right;">144</p> <p>1 Q. While he was wearing a motorcycle</p> <p>2 helmet?</p> <p>3 A. Yes.</p> <p>4 Q. Did you see him raise his whole body</p> <p>5 and turn himself around?</p> <p>6 A. No, ma'am.</p> <p>7 Q. Okay. So if he's wearing a motorcycle</p> <p>8 helmet with no peripheral vision, how is he able</p> <p>9 to turn around to see a car directly behind him?</p> <p>10 MR. CAMPBELL: Objection. Assumes</p> <p>11 facts not in evidence. And it's argumentative.</p> <p>12 You can answer if you can.</p> <p>13 A. Sure. (Indicates.) Just like that.</p> <p>14 You just turn your head.</p> <p>15 BY MS. REGAN:</p> <p>16 Q. Okay.</p> <p>17 A. And look over your shoulder.</p> <p>18 Q. So while he's riding a motorcycle, you</p> <p>19 believe he turned his head like that and looked</p> <p>20 behind him?</p> <p>21 A. I do.</p> <p>22 MR. CAMPBELL: Objection. Asked and</p> <p>23 answered. You can answer.</p> <p>24 A. I believe so, yes.</p> <p>25 BY MS. REGAN:</p>

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<p style="text-align: right;">149</p> <p>1 at that time?</p> <p>2 A. I'm not going to tell you I didn't</p> <p>3 have adrenaline. But I wasn't adrenaized. I</p> <p>4 mean, you know, they teach us how to breathe</p> <p>5 through that thing and control it, so I wasn't</p> <p>6 overly amped up by any means.</p> <p>7 Q. Okay.</p> <p>8 A. I was trying -- I was focusing on his</p> <p>9 license plate. And, again, the license plate was</p> <p>10 kind of tilted up. So I had to get close to it</p> <p>11 to, you know, read it out and get it on -- get it</p> <p>12 to my dispatch center so they could have that</p> <p>13 license plate.</p> <p>14 Q. And did you -- and I'm sorry if you</p> <p>15 testified already to this, but as you're focusing</p> <p>16 on the license plate, you do not notice that he</p> <p>17 has a blinker on?</p> <p>18 A. I did not.</p> <p>19 Q. Okay.</p> <p>20 A. I was focused on the license plate.</p> <p>21 Q. Even though the turn signal would have</p> <p>22 been right next to the license plate?</p> <p>23 A. I didn't recognize if he had a</p> <p>24 license -- a turn signal on or not. I don't</p> <p>25 recall.</p>	<p style="text-align: right;">151</p> <p>1 A. No.</p> <p>2 Q. Or your OSP hat?</p> <p>3 A. No.</p> <p>4 Q. Okay. Do you recall the area where he</p> <p>5 had pulled over where the collision happens?</p> <p>6 A. Yes, ma'am.</p> <p>7 Q. And do you recall that there was sort</p> <p>8 of a drop-off to the right-hand side of the road</p> <p>9 down into like one of those little ditches?</p> <p>10 A. The unpaved shoulder?</p> <p>11 Q. Yes.</p> <p>12 A. The gravel portion, yes.</p> <p>13 Q. And do you remember that it's -- it</p> <p>14 steeply declined into like a drainage area?</p> <p>15 A. Directly adjacent from the roadway?</p> <p>16 Q. Yes.</p> <p>17 A. Well, there would have been a gravel</p> <p>18 shoulder, then probably into a grassy area, which</p> <p>19 then slopes down into a neighboring field or</p> <p>20 something.</p> <p>21 Q. Okay. How many feet do you recall --</p> <p>22 obviously, I know you're going to estimate this --</p> <p>23 that Mr. Wilkens slowed as he approached that T?</p> <p>24 For how many feet had you been applying your</p> <p>25 brakes, for instance?</p>
<p style="text-align: right;">150</p> <p>1 Q. Okay. But you certainly were aware</p> <p>2 that he was slowing down. Correct?</p> <p>3 A. Yes.</p> <p>4 Q. And do you recall him putting both</p> <p>5 feet on the ground prior to you colliding with</p> <p>6 him?</p> <p>7 A. I don't recall that.</p> <p>8 Q. Okay.</p> <p>9 A. Not saying it didn't happen. I just</p> <p>10 don't recall.</p> <p>11 Q. So when you are coming to this</p> <p>12 intersection and he is slowing down, what else</p> <p>13 could he have done to indicate that he was coming</p> <p>14 to a stop at the -- at the -- you know, the result</p> <p>15 of seeing your lights or, you know, recognizing</p> <p>16 that you were a police car?</p> <p>17 A. At that point in time I don't think he</p> <p>18 could have done anything different.</p> <p>19 Q. Okay.</p> <p>20 A. He was slowing. He was slowing down,</p> <p>21 and that's what I expected him to do, you know,</p> <p>22 five miles prior to that.</p> <p>23 Q. Okay. So -- and I meant to ask you</p> <p>24 this earlier. Were you wearing your hat? Your</p> <p>25 patrol hat?</p>	<p style="text-align: right;">152</p> <p>1 A. I have no idea. I really don't.</p> <p>2 Q. Okay. Would it be easier to</p> <p>3 approximate how many seconds or how many -- how</p> <p>4 many minutes you would have been slowing down?</p> <p>5 A. As we came down the hill at well over</p> <p>6 100 miles per hour, so obviously I had to get on</p> <p>7 my brakes fairly early to get some of that speed</p> <p>8 scrubbed off, I would -- total ball -- you want a</p> <p>9 ballpark estimate?</p> <p>10 Q. Your best estimate.</p> <p>11 A. My best estimate.</p> <p>12 MR. CAMPBELL: If you don't know, "I</p> <p>13 don't know" is a fair answer.</p> <p>14 A. Yeah. I don't know.</p> <p>15 BY MS. REGAN:</p> <p>16 Q. Okay.</p> <p>17 A. I really don't. I couldn't tell you.</p> <p>18 Q. And I think you just testified, but I</p> <p>19 want to make sure, at the time that you were</p> <p>20 approaching the stop, I guess your testimony is</p> <p>21 that there was a downhill right prior to that --</p> <p>22 that intersection or that T.</p> <p>23 A. Yes, ma'am.</p> <p>24 Q. And was your testimony that you --</p> <p>25 you, you're in the Camaro, were going about</p>

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<p style="text-align: right;">169</p> <p>1 bit on him. Are you using your knee to push his</p> <p>2 body further into the ground?</p> <p>3 A. Very initial --</p> <p>4 MR. CAMPBELL: I object to the form</p> <p>5 of the question. I don't think the video shows</p> <p>6 that but --</p> <p>7 (Reporter inquiry.)</p> <p>8 MR. CAMPBELL: I don't think the</p> <p>9 video shows that. You can answer.</p> <p>10 A. Yeah. When I first make contact with</p> <p>11 him, I grab his -- his right arm. I do. I put</p> <p>12 both my knees in the middle of his back or on the</p> <p>13 right side of his back to help shove him the rest</p> <p>14 of the way onto the ground. Then I begin to</p> <p>15 struggle with the gloves and the riding gear to</p> <p>16 get him handcuffed.</p> <p>17 BY MS. REGAN:</p> <p>18 Q. Okay. And did you perceive him as</p> <p>19 resisting your efforts to handcuff him?</p> <p>20 A. No.</p> <p>21 Q. Okay. Why didn't you just remove the</p> <p>22 gloves before handcuffing him?</p> <p>23 A. I did.</p> <p>24 Q. Okay. So when you say you struggled</p> <p>25 to handcuff him, what do you mean by that?</p>	<p style="text-align: right;">171</p> <p>1 armpits, I believe. Is that right?</p> <p>2 A. I read him his Miranda rights and</p> <p>3 decided to stand him up. Told him to extend his</p> <p>4 right leg out. Bring his left leg into the --</p> <p>5 into the inner thigh of his right leg. Then I</p> <p>6 helped the forward upward motion with his left</p> <p>7 arm, helped him to his feet.</p> <p>8 Q. So where were your arm -- where were</p> <p>9 your hands located on his body as you were</p> <p>10 assisting him to his feet?</p> <p>11 A. I would imagine one in the midback and</p> <p>12 probably one under his arm.</p> <p>13 Q. Okay. And do you recall how much</p> <p>14 effort you needed in order to assist him to his</p> <p>15 feet? Was he deadweight or was he --</p> <p>16 A. Oh, absolutely not.</p> <p>17 Q. -- on his own getting up?</p> <p>18 A. The purpose for having them put their</p> <p>19 right leg out and bringing their left leg in, it's</p> <p>20 more of a push onto their knee, and then they're</p> <p>21 able to help stand themselves up.</p> <p>22 Q. Okay. And when he is laying on the</p> <p>23 ground -- well, let me ask you this.</p> <p>24 How long is he laying on the ground</p> <p>25 before you assist him to his feet?</p>
<p style="text-align: right;">170</p> <p>1 A. The right hand, I believe, if you</p> <p>2 watch the video, I -- I sit there in this position</p> <p>3 with my knees on his back. You can't see him, but</p> <p>4 my knees are on his back. I'm on -- most of my</p> <p>5 weight is on the balls of my feet and I am taking</p> <p>6 his gloves off.</p> <p>7 Q. Okay.</p> <p>8 A. Off his right hand.</p> <p>9 Q. Okay.</p> <p>10 A. Then I'm able to get a handcuff on his</p> <p>11 right wrist. Then I believe somehow I'm either</p> <p>12 able to pull his jacket sleeve up and I'm able to</p> <p>13 get him handcuffed with his left hand still --</p> <p>14 with his glove on.</p> <p>15 Q. Okay. And would you agree that you</p> <p>16 apply the handcuffs in a manner that did not allow</p> <p>17 for a pinkie distance between his skin and the</p> <p>18 cuffs? Did you apply the handcuffs tightly?</p> <p>19 A. I applied my handcuffs as I've been</p> <p>20 trained.</p> <p>21 Q. Okay.</p> <p>22 A. They -- I did not cinch those</p> <p>23 handcuffs down any tighter than anybody else.</p> <p>24 Q. Okay. And then at some point you</p> <p>25 assist him to his feet by grabbing one of his</p>	<p style="text-align: right;">172</p> <p>1 A. I would have to watch the video, but</p> <p>2 an estimation, a few minutes.</p> <p>3 Q. Okay. And from the time you handcuff</p> <p>4 him -- and we'll watch the video in a minute --</p> <p>5 but you leave the video vantage point for several</p> <p>6 minutes. What are you doing during that time</p> <p>7 period?</p> <p>8 A. I'm telling my dispatch center that I</p> <p>9 was just involved in a crash. Telling my dispatch</p> <p>10 center that I'm code 4. I've got one detained.</p> <p>11 Q. Tell me what code 4 means.</p> <p>12 A. Everything's okay.</p> <p>13 Q. Okay.</p> <p>14 A. I'm safe. Suspect is safe.</p> <p>15 Everybody's okay. Asking -- telling other units</p> <p>16 where I'm at. Other responding units that are</p> <p>17 coming to try to assist, telling them where I'm</p> <p>18 at. And asking for sheriff's office to come and,</p> <p>19 you know, investigate things.</p> <p>20 Q. Okay. And did you make the decision</p> <p>21 on your own to ask Lane County sheriff to do an</p> <p>22 outside investigation?</p> <p>23 A. I did.</p> <p>24 Q. Okay. So your supervisor did not</p> <p>25 instruct you to do that?</p>

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1 Same thing with us. Not always, but it just looks
2 cleaner. It looks better if somebody else does
3 the investigation.

4 Q. And when you say "investigation,"
5 we're talking beyond the crash, then? You're
6 saying take over the investigation of the suspect
7 as well. Correct?

8 A. Mainly the -- the crash investigation,
9 but in this case, yeah, just let them take over
10 the investigation from that point forward.

11 Q. Okay. So no one from Lane County
12 Sheriff's Office witnessed Mr. Wilkens violating
13 the law. Correct?

14 A. That would be correct.

15 Q. So them issuing the citations was
16 solely based on your statements to them. Correct?

17 A. That's correct.

18 Q. And have you read the Lane County
19 sheriff officer reports, both Deputy Ware and
20 Deputy Holiman's reports, in this instance?

21 A. Over two years ago, yes.

22 Q. Do you recall that the statements you
23 provided to them were reflected accurately in
24 their reports?

25 A. I'd have to read their reports. I

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<p style="text-align: right;">205</p> <p>1 the ground all the way. He is handcuffed. And</p> <p>2 now you've walked away and you haven't said</p> <p>3 anything else to him like read him his rights or</p> <p>4 told him why he was being handcuffed or anything</p> <p>5 like that. Correct?</p> <p>6 MR. CAMPBELL: Objection. Misstates</p> <p>7 testimony. You can answer if you can.</p> <p>8 A. Most of what you're saying is</p> <p>9 accurate. Multiple verbal commands to get on the</p> <p>10 ground. But at this point in time I have not read</p> <p>11 him his rights yet. I have not had any other</p> <p>12 verbal communication with him other than multiple</p> <p>13 orders to get on the ground. Once I shut my siren</p> <p>14 off and I reappear, he's read his Miranda rights</p> <p>15 and then we have a discussion.</p> <p>16 BY MS. REGAN:</p> <p>17 Q. Okay. So when you go back to the --</p> <p>18 you've now gone back to your vehicle I assume?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And when you get in the</p> <p>21 vehicle, is that when you turn off the siren?</p> <p>22 A. Yes, ma'am.</p> <p>23 Q. Okay. (Video plays.)</p> <p>24 And now I am turning to the video that</p> <p>25 is captioned, "Two-hour, zero minutes, 19</p>	<p style="text-align: right;">207</p> <p>1 Q. Now, do you recall what -- is there</p> <p>2 anything else that you're saying, or is this still</p> <p>3 all the rights?</p> <p>4 A. I asked him if he's okay. Does he</p> <p>5 need medics. Stuff like that. Starting my --</p> <p>6 Q. What else?</p> <p>7 A. Starting my interrogation on, "Why are</p> <p>8 you running? Why are you running from me?"</p> <p>9 I look at the -- he says basically, "I</p> <p>10 didn't know you were a cop."</p> <p>11 I was pointing out all my red and blue</p> <p>12 lights, saying, "How could you not know I'm a</p> <p>13 cop?"</p> <p>14 Q. Okay. What was his answer to whether</p> <p>15 he needed medics or whether he was injured?</p> <p>16 A. At that time he said he did not need</p> <p>17 medics. He was just a bit shaken up.</p> <p>18 Q. Okay. Would you agree that it is a</p> <p>19 very clear, sunny day?</p> <p>20 A. Yeah. It was a nice day.</p> <p>21 Q. And are you -- do you recall whether</p> <p>22 you are driving into the sun or away from the sun?</p> <p>23 Do you remember what direction this road is --</p> <p>24 A. The majority of that road runs</p> <p>25 northbound, so the sun would be one o'clock,</p>
<p style="text-align: right;">206</p> <p>1 seconds," which basically is a continuation of the</p> <p>2 prior video.</p> <p>3 And during this time period, I believe</p> <p>4 you testified that you are making cell phone calls</p> <p>5 to dispatch and I think you said your supervisor.</p> <p>6 A. Just radio --</p> <p>7 Q. Okay.</p> <p>8 A. -- right now.</p> <p>9 Q. Just radio calls?</p> <p>10 A. I haven't called my supervisor yet.</p> <p>11 Q. Okay. So right now you're just making</p> <p>12 radio calls saying code 4?</p> <p>13 A. Where I'm at. Shutting my siren off.</p> <p>14 Q. You haven't asked him yet if he's been</p> <p>15 injured in the collision or anything like that.</p> <p>16 Correct?</p> <p>17 A. I don't believe so. Not yet.</p> <p>18 Q. So do you recall what you're saying to</p> <p>19 Mr. Wilkens at this time?</p> <p>20 A. I'm informing him of his -- of his</p> <p>21 Miranda rights.</p> <p>22 Q. And what's his response to you reading</p> <p>23 his Miranda rights?</p> <p>24 A. Asked him if he understood. And if I</p> <p>25 recall right, he said, "Yeah."</p>	<p style="text-align: right;">208</p> <p>1 pretty much overhead.</p> <p>2 Q. Now, at this time does he tell you</p> <p>3 that he thought you were the Honda that he had</p> <p>4 passed?</p> <p>5 A. At some point in time, he does. I</p> <p>6 don't recall if it's at this point in time or when</p> <p>7 we continue our conversation while he's sitting on</p> <p>8 the hood of the car.</p> <p>9 Q. Okay.</p> <p>10 A. But that does take place.</p> <p>11 Q. And he -- do you recall him telling</p> <p>12 you that he thought that the car was wanting to</p> <p>13 race him and so he was trying to put some distance</p> <p>14 between him and that -- and what he thought was</p> <p>15 that car wanting to race, something to that</p> <p>16 effect?</p> <p>17 A. Something to that effect. That he</p> <p>18 passed a Honda car near the high school, which</p> <p>19 would be approximately milepost 1, and that they</p> <p>20 were racing or something to that effect.</p> <p>21 Q. Okay. Would you agree that your</p> <p>22 unmarked vehicle is of similar color to that Honda</p> <p>23 that he passed?</p> <p>24 A. I've never seen the Honda that he</p> <p>25 passed. He says it was gray. If it was gray, it</p>

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<p style="text-align: right;">213</p> <p>1 for the crash investigation?</p> <p>2 A. I guess I weighed the options of</p> <p>3 taking care of his stuff versus leaving his</p> <p>4 motorcycle on the side where it can continue to be</p> <p>5 damaged. I chose to take -- I'd take care of his</p> <p>6 property.</p> <p>7 Q. And what was your understanding of the</p> <p>8 damage that could be perpetuated if it was left on</p> <p>9 its side?</p> <p>10 A. Just my understanding it's not good</p> <p>11 for a -- it's not good for motors like that to</p> <p>12 continue to run if it is running in a situation</p> <p>13 like that on its side.</p> <p>14 Q. Okay. So is it your testimony that</p> <p>15 the concern regarding continued damage was to the</p> <p>16 motor because it was running and on its side or is</p> <p>17 there some kind of damage that you're aware of</p> <p>18 that would occur if the motor was off and it's</p> <p>19 just on its side?</p> <p>20 A. I don't recall if the motor was</p> <p>21 running. I -- it could have been. I don't recall</p> <p>22 if it was or wasn't. I'm trying to take care of</p> <p>23 that man's equipment. Trying to take care of his</p> <p>24 bike.</p> <p>25 Q. Okay. So whether the motor was on or</p>	<p style="text-align: right;">215</p> <p>1 A. I don't.</p> <p>2 Q. Okay. Do you know what ultimately</p> <p>3 happened with those citations?</p> <p>4 A. I do not.</p> <p>5 Q. Were you aware that they were never</p> <p>6 filed by the district attorney?</p> <p>7 A. Wouldn't surprise me. I was not</p> <p>8 aware.</p> <p>9 Q. Okay. Were you aware that Mr. Wilkens</p> <p>10 was never convicted of any charges as a result of</p> <p>11 this incident?</p> <p>12 A. I'm aware now.</p> <p>13 Q. But you weren't throughout the</p> <p>14 entirety of the last two years?</p> <p>15 A. I don't recall, ma'am. I may have</p> <p>16 been told and forgot. I don't recall if he had</p> <p>17 been prosecuted or not. I'm assuming he was not</p> <p>18 prosecuted -- well, I know we didn't go to grand</p> <p>19 jury and I know I didn't have to get court notice,</p> <p>20 but it could have been pled out through court. I</p> <p>21 wasn't -- I don't recall if I was notified or not.</p> <p>22 Q. Okay. In felony -- when felony</p> <p>23 citations are issued, would you normally be kept</p> <p>24 apprised of the court proceedings?</p> <p>25 A. No.</p>
<p style="text-align: right;">214</p> <p>1 not, it was your understanding that damage would</p> <p>2 be done to the bike by it being on its side?</p> <p>3 A. It's my understanding it's not good</p> <p>4 for them.</p> <p>5 Q. All right. I think that's probably</p> <p>6 all for the video I need.</p> <p>7 The fan will turn off automatically in</p> <p>8 a second.</p> <p>9 THE REPORTER: Thanks.</p> <p>10 BY MS. REGAN:</p> <p>11 Q. From the time that Mr. Wilkens is</p> <p>12 knocked off the motorcycle to the time that you</p> <p>13 place handcuffs on him, you can see his hands at</p> <p>14 all times. Is that correct? He makes his hands</p> <p>15 visible to you at all times?</p> <p>16 A. Well, technically, no. He's laying --</p> <p>17 he's on his belly. His hands are here. Until</p> <p>18 they're behind his back is when I can see them</p> <p>19 completely at all times.</p> <p>20 Q. Okay. So Lane County Sheriff's</p> <p>21 Office, Deputy Ware, issues the citations to</p> <p>22 Mr. Wilkens, but you would still be the witness if</p> <p>23 the case had gone to trial. I don't know if</p> <p>24 you're technically called the complainant in that</p> <p>25 situation. Do you know?</p>	<p style="text-align: right;">216</p> <p>1 Q. Okay.</p> <p>2 A. No. The district attorney's office</p> <p>3 routinely -- routinely -- dismissed felony</p> <p>4 citations based on manpower issues, and we are</p> <p>5 never apprised if they proceed, are convicted,</p> <p>6 plead guilty, or dismissed. Very, very seldom are</p> <p>7 we told.</p> <p>8 Q. Okay. And was that still the case</p> <p>9 back in 2012?</p> <p>10 A. Yes.</p> <p>11 Q. August of 2012? Okay. So you are not</p> <p>12 aware of why the district attorney's office</p> <p>13 refused to file any charges against Mr. Wilkens?</p> <p>14 A. No.</p> <p>15 Q. Okay. Were you investigated for</p> <p>16 committing a crime against Mr. Wilkens?</p> <p>17 A. Well, an internal investigation was</p> <p>18 completed. I was never interviewed and given my</p> <p>19 Miranda rights. So I'm not sure if a criminal</p> <p>20 investigation was completed on me or not.</p> <p>21 Q. Okay.</p> <p>22 A. I do believe we did take the facts of</p> <p>23 that case to the district attorney's office for</p> <p>24 review. So I'd take that for what it's -- I don't</p> <p>25 know if I was investigated for a crime or not.</p>

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<p style="text-align: right;">161</p> <p>1 struck Mr. Wilkens, did you actually feel the</p> <p>2 impact of the hit?</p> <p>3 A. Lightly, yes.</p> <p>4 Q. Okay. Were you watching him and the</p> <p>5 motorcycle at the time that you made impact with</p> <p>6 him?</p> <p>7 A. Yes.</p> <p>8 Q. And so do you -- what do you recall</p> <p>9 seeing in terms of him and the bike going down?</p> <p>10 A. I recall the pushing the bike forward,</p> <p>11 and it appeared that he was attempting to stay</p> <p>12 balanced on the bike, but ultimately fell off the</p> <p>13 bike.</p> <p>14 Q. Okay. And did the motorcycle remain</p> <p>15 running?</p> <p>16 A. I don't recall.</p> <p>17 Q. Okay. And I think you indicated that</p> <p>18 you were concerned that you were actually going to</p> <p>19 run over him because of the direction -- he fell</p> <p>20 in the path of your vehicle. Is that right?</p> <p>21 A. He did.</p> <p>22 Q. And do you recall how close you were</p> <p>23 to actually hitting him with the wheels of the</p> <p>24 vehicle?</p> <p>25 A. Yeah. It wasn't nearly as close as it</p>	<p style="text-align: right;">163</p> <p>1 volition prior to you colliding with him?</p> <p>2 MR. CAMPBELL: Objection.</p> <p>3 Argumentative. You can answer.</p> <p>4 BY MS. REGAN:</p> <p>5 Q. You can answer.</p> <p>6 A. Sorry. He did.</p> <p>7 Q. Okay. And -- and you've just knocked</p> <p>8 him to the ground after colliding with his</p> <p>9 motorcycle and he is on the ground. So under</p> <p>10 those circumstances, what would be the serious</p> <p>11 safety threat to you? He hasn't pulled a weapon.</p> <p>12 He hasn't taken an aggressive stance. What was</p> <p>13 your rationale for pulling your weapon on him at</p> <p>14 that time?</p> <p>15 MR. CAMPBELL: Object to the form of</p> <p>16 the question. You can answer if you can.</p> <p>17 A. He was a threat to me. He's a threat,</p> <p>18 because he's attempted to elude me over the course</p> <p>19 of five miles that -- at well over 100 miles per</p> <p>20 hour so --</p> <p>21 BY MS. REGAN:</p> <p>22 Q. And now he's stopped?</p> <p>23 A. So, in my opinion, obviously he's done</p> <p>24 some type of criminal activity, which he's trying</p> <p>25 to avoid me, let alone he's committed the class C</p>
<p style="text-align: right;">162</p> <p>1 appeared, based on me sitting, and the hood, and</p> <p>2 me losing sight of him. But 10 -- you know,</p> <p>3 15 feet in front of my patrol vehicle.</p> <p>4 Q. Okay.</p> <p>5 A. Would be an estimation.</p> <p>6 Q. Okay. And then what do you recall</p> <p>7 happening after he fell to the ground?</p> <p>8 A. I exited my vehicle as quickly as</p> <p>9 possible, drew my sidearm.</p> <p>10 Q. And why did you draw your sidearm at</p> <p>11 that time?</p> <p>12 A. Because this was a high-risk stop.</p> <p>13 Q. You had just knocked him off of his</p> <p>14 bike. What were -- what were -- what was the</p> <p>15 concern for your safety at that time?</p> <p>16 A. It's unknown. He's -- he's -- in my</p> <p>17 opinion, he's demonstrated an extreme attempt to</p> <p>18 elude me -- elude me. Why he's eluding me, I</p> <p>19 don't know. Maybe he didn't just rob the bank in</p> <p>20 Mapleton, but maybe he just committed a robbery.</p> <p>21 Maybe the bike is stolen. Maybe he's a drug</p> <p>22 dealer. Maybe he's high on methamphetamine.</p> <p>23 Maybe -- there's multiple reasons why people run</p> <p>24 from the police so --</p> <p>25 Q. But didn't he just stop on his own</p>	<p style="text-align: right;">164</p> <p>1 felony of attempt to elude a police officer. So I</p> <p>2 can't take the risk of hoping he gets up and gives</p> <p>3 me a hug.</p> <p>4 I don't know why he's running, but my</p> <p>5 experience where -- people run because they're</p> <p>6 afraid of going to jail or being incarcerated.</p> <p>7 So, my opinion, he's running for a reason. I</p> <p>8 don't know that reason.</p> <p>9 Q. Weren't you concerned that you had</p> <p>10 injured him in the collision?</p> <p>11 A. Sure, I was.</p> <p>12 Q. And so he stands up on his own.</p> <p>13 Correct?</p> <p>14 A. Yes, ma'am.</p> <p>15 Q. And he holds his hands like this.</p> <p>16 Right? He's showing you his hands. Correct?</p> <p>17 (Indicating.)</p> <p>18 A. Correct.</p> <p>19 Q. And did you take that as any kind of</p> <p>20 violent gesture?</p> <p>21 A. I did not.</p> <p>22 Q. Okay. And you, I guess -- I mean,</p> <p>23 you're welcome to testify to this too, but I guess</p> <p>24 at some point you're telling him to get down on</p> <p>25 the ground. Is that right?</p>

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<p style="text-align: right;">165</p> <p>1 A. Multiple times, yes.</p> <p>2 Q. And why were you asking him to get</p> <p>3 down on the ground?</p> <p>4 A. That's my way of keeping myself, him,</p> <p>5 and the surrounding people safe. I want to get</p> <p>6 him on the ground in a pair of handcuffs as</p> <p>7 quickly as possible.</p> <p>8 Q. And would you agree that you had some</p> <p>9 adrenaline coursing through your body at this</p> <p>10 time?</p> <p>11 A. A heightened level of awareness,</p> <p>12 little bit of adrenaline. I'm not going to say I</p> <p>13 don't have any, but yes. I was -- my awareness</p> <p>14 level was definitely increased.</p> <p>15 Q. Okay. And then on the video, it shows</p> <p>16 him starting to go down on the ground when you</p> <p>17 appear to kick him in the sternum. Would you</p> <p>18 agree that that is what the video illustrates?</p> <p>19 A. Yes.</p> <p>20 Q. And so why were you -- why did you</p> <p>21 deploy the kick as he was complying with your</p> <p>22 request?</p> <p>23 A. At the time that I had formulated the</p> <p>24 mental plan to take a step forward and to deliver</p> <p>25 a front push kick, it takes anywhere from a second</p>	<p style="text-align: right;">167</p> <p>1 complies with your requests and he gets down on</p> <p>2 the ground. Right?</p> <p>3 A. Partially, yes.</p> <p>4 Q. Why do you say partially?</p> <p>5 A. He didn't go all the way down onto his</p> <p>6 belly. He was on his knees and on his forearms.</p> <p>7 Q. Okay.</p> <p>8 A. He wasn't -- his belly wasn't all the</p> <p>9 way on the ground.</p> <p>10 Q. And was that because of the gear that</p> <p>11 he had on?</p> <p>12 A. I wouldn't think. So I wouldn't think</p> <p>13 the riding jacket and blue jeans would affect his</p> <p>14 ability to lay on the ground.</p> <p>15 Q. Okay. And once he is down on the</p> <p>16 ground, the video camera no longer captures video.</p> <p>17 Correct?</p> <p>18 A. No. It continues to capture video.</p> <p>19 Q. But you can't see what -- what</p> <p>20 Mr. Wilkens is doing on the ground from the angle</p> <p>21 of the video camera. Right?</p> <p>22 A. It's obscured from the vehicle, but</p> <p>23 the video was still running.</p> <p>24 Q. Okay. And does your uniform -- well,</p> <p>25 your uniform at that time, did you have audio?</p>
<p style="text-align: right;">166</p> <p>1 to a second and a half to make the determination,</p> <p>2 get the neurons going to get the body in motion,</p> <p>3 and at that time is when he begins to lower</p> <p>4 himself, and I had already put that motion into</p> <p>5 action.</p> <p>6 Q. Did you hear him say anything to you</p> <p>7 prior to you delivering the kick?</p> <p>8 A. I did not.</p> <p>9 Q. Were you aware that -- I mean, I</p> <p>10 assume you were aware that he was wearing a</p> <p>11 motorcycle helmet. Correct?</p> <p>12 A. Full-faced, yes.</p> <p>13 Q. And would you agree that his hearing</p> <p>14 is going to be limited as a result of the helmet?</p> <p>15 A. I would sure like to think if he's</p> <p>16 standing from me to the door and I'm yelling at</p> <p>17 him, he would -- and he's got a state trooper with</p> <p>18 a gun pointed at him pointing to the ground and</p> <p>19 yelling at him, he would comply.</p> <p>20 Q. Okay. And, in fact, he was complying</p> <p>21 at the time that you kicked him. Correct?</p> <p>22 A. He was beginning to at the time the</p> <p>23 kick was delivered, yes.</p> <p>24 Q. Okay. And then after you kick him, he</p> <p>25 does get down on the ground. Correct? He</p>	<p style="text-align: right;">168</p> <p>1 Like are you able to be -- are you picking up from</p> <p>2 radio? You know, is your radio able to capture</p> <p>3 audio?</p> <p>4 A. No, ma'am.</p> <p>5 Q. Okay. And is that because you're --</p> <p>6 you did not have a radio on your uniform at that</p> <p>7 time?</p> <p>8 A. A radio or a mic for the camera?</p> <p>9 Q. A mic. Yeah.</p> <p>10 A. I did not have a mic.</p> <p>11 Q. Okay.</p> <p>12 A. Again, I didn't even think the camera</p> <p>13 system worked.</p> <p>14 Q. Okay. Once Mr. Wilkens is down on the</p> <p>15 ground, what do you do next?</p> <p>16 A. Yell at him to put his hands behind</p> <p>17 his back. Retrieve his right arm. Struggle with</p> <p>18 his protective riding gloves and jacket in</p> <p>19 attempts to get him handcuffed.</p> <p>20 Q. Okay. And do you utilize your knee in</p> <p>21 his back at some point?</p> <p>22 A. I put my weight on his back. Yes,</p> <p>23 ma'am.</p> <p>24 Q. And did you put some knee -- the video</p> <p>25 sort of depicts you bouncing up and down a little</p>

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<p style="text-align: right;">185</p> <p>1 that type of compensation would be made to the</p> <p>2 victim of the accident?</p> <p>3 A. I'm sure it would be a portion of the</p> <p>4 overall review to determine if it was a situation</p> <p>5 that we would pay or we wouldn't pay, yes.</p> <p>6 Q. And was there anything else -- other</p> <p>7 than Deputy Ware taking your statements, did they</p> <p>8 do anything else in the course of this</p> <p>9 investigation? Did they measure anything or</p> <p>10 review video or anything else other than take</p> <p>11 statements?</p> <p>12 A. They took some pictures. I believe</p> <p>13 they interviewed Mr. Wilkens. They spoke with me.</p> <p>14 I'm not sure what else they may have done, may or</p> <p>15 may not have done.</p> <p>16 Q. Okay. Were you ever informed that</p> <p>17 Lane County Sheriff's Office determined that you</p> <p>18 were at fault for the collision?</p> <p>19 A. I don't recall.</p> <p>20 Q. Okay.</p> <p>21 MR. CAMPBELL: Is this a good time</p> <p>22 for a quick break?</p> <p>23 MS. REGAN: Sure.</p> <p>24 (Recess: 2:35 p.m. to 2:46 p.m.)</p> <p>25 BY MS. REGAN:</p>	<p style="text-align: right;">187</p> <p>1 at the time that you were giving him the commands</p> <p>2 to get down.</p> <p>3 A. I thought -- I thought I said 15.</p> <p>4 Q. Okay. So within 10 to 15 feet. So in</p> <p>5 pretty close proximity to the siren emanating from</p> <p>6 your vehicle?</p> <p>7 A. Sure.</p> <p>8 Q. Okay. In addition to the interview</p> <p>9 that Deputy Ware did of you, was there any other</p> <p>10 law enforcement officer that interviewed you</p> <p>11 regarding the crash or the use of force?</p> <p>12 A. I'm trying to remember if I was</p> <p>13 interviewed by my supervisor for the interim --</p> <p>14 the use of force/pursuit review. I don't recall.</p> <p>15 I don't recall if I was interviewed or not.</p> <p>16 Q. Okay. And so just to follow up on</p> <p>17 that, do you have any knowledge of any recordings</p> <p>18 that are in existence of you being interviewed</p> <p>19 about this incident?</p> <p>20 A. Not that I can recall.</p> <p>21 Q. Okay. I had asked you before the</p> <p>22 lunch break about a recollection or an incident</p> <p>23 that I had regarding --</p> <p>24 A. Can I interrupt you?</p> <p>25 Q. Yeah.</p>
<p style="text-align: right;">186</p> <p>1 Q. Okay. We are back on the record. It</p> <p>2 is approximately 2:44 p.m. This is the deposition</p> <p>3 of Officer Edwards -- I'm sorry, Captain Edwards.</p> <p>4 And before we turn to the video, I</p> <p>5 meant to ask you, and Mr. Wilkens reminded me to</p> <p>6 ask, at the time that the collision happened and</p> <p>7 Mr. Wilkens falls to the ground and you exit your</p> <p>8 vehicle, do you recall whether or not you had your</p> <p>9 siren on or off?</p> <p>10 A. It was on.</p> <p>11 Q. Okay. And so when you are speaking</p> <p>12 with Mr. Wilkens, the siren is still -- while</p> <p>13 you're giving him the commands, the initial</p> <p>14 commands to get on the ground, the siren is still</p> <p>15 activated. Correct?</p> <p>16 A. Yes, ma'am.</p> <p>17 Q. Okay. But you don't recall whether or</p> <p>18 not the motorcycle was continuing to run. Is that</p> <p>19 right?</p> <p>20 A. That's correct. I don't remember if</p> <p>21 it had stopped running or -- or not. I picked it</p> <p>22 up and put it on -- put it back on two wheels, and</p> <p>23 I don't remember if it was running or not.</p> <p>24 Q. Okay. And I believe you testified</p> <p>25 that Mr. Wilkens was within 10 feet of the vehicle</p>	<p style="text-align: right;">188</p> <p>1 A. I think Captain Heider did interview</p> <p>2 me regarding this incident. I do not recall if it</p> <p>3 would have been recorded or not.</p> <p>4 Q. Okay. Do you recall how long after</p> <p>5 the incident that interview took place?</p> <p>6 A. It had to be several weeks.</p> <p>7 Q. Okay. All right. So remember I was</p> <p>8 asking you about whether there was any other</p> <p>9 incident where you had failed to use your siren?</p> <p>10 A. Yes, ma'am.</p> <p>11 Q. So I pulled up that document during</p> <p>12 the lunch break, and it was an incident on</p> <p>13 July 18th of 2014, and it was another motorcycle</p> <p>14 incident. It says, "I observed a motorcycle</p> <p>15 traveling north on -- on Northwest Expressway at a</p> <p>16 high rate of speed." Basically it was a</p> <p>17 motorcycle speeding that ended up going into a</p> <p>18 residential area and you terminated pursuit of</p> <p>19 that vehicle.</p> <p>20 A. Yes, ma'am.</p> <p>21 Q. Does that rec -- does that refresh</p> <p>22 your recollection?</p> <p>23 A. Yes. I do recall that pursuit now.</p> <p>24 Q. Okay. And in that incident, your</p> <p>25 supervisors indicated that you had appropriately</p>

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<p style="text-align: right;">169</p> <p>1 bit on him. Are you using your knee to push his</p> <p>2 body further into the ground?</p> <p>3 A. Very initial --</p> <p>4 MR. CAMPBELL: I object to the form</p> <p>5 of the question. I don't think the video shows</p> <p>6 that but --</p> <p>7 (Reporter inquiry.)</p> <p>8 MR. CAMPBELL: I don't think the</p> <p>9 video shows that. You can answer.</p> <p>10 A. Yeah. When I first make contact with</p> <p>11 him, I grab his -- his right arm. I do. I put</p> <p>12 both my knees in the middle of his back or on the</p> <p>13 right side of his back to help shove him the rest</p> <p>14 of the way onto the ground. Then I begin to</p> <p>15 struggle with the gloves and the riding gear to</p> <p>16 get him handcuffed.</p> <p>17 BY MS. REGAN:</p> <p>18 Q. Okay. And did you perceive him as</p> <p>19 resisting your efforts to handcuff him?</p> <p>20 A. No.</p> <p>21 Q. Okay. Why didn't you just remove the</p> <p>22 gloves before handcuffing him?</p> <p>23 A. I did.</p> <p>24 Q. Okay. So when you say you struggled</p> <p>25 to handcuff him, what do you mean by that?</p>	<p style="text-align: right;">171</p> <p>1 armpits, I believe. Is that right?</p> <p>2 A. I read him his Miranda rights and</p> <p>3 decided to stand him up. Told him to extend his</p> <p>4 right leg out. Bring his left leg into the --</p> <p>5 into the inner thigh of his right leg. Then I</p> <p>6 helped the forward upward motion with his left</p> <p>7 arm, helped him to his feet.</p> <p>8 Q. So where were your arm -- where were</p> <p>9 your hands located on his body as you were</p> <p>10 assisting him to his feet?</p> <p>11 A. I would imagine one in the midback and</p> <p>12 probably one under his arm.</p> <p>13 Q. Okay. And do you recall how much</p> <p>14 effort you needed in order to assist him to his</p> <p>15 feet? Was he deadweight or was he --</p> <p>16 A. Oh, absolutely not.</p> <p>17 Q. -- on his own getting up?</p> <p>18 A. The purpose for having them put their</p> <p>19 right leg out and bringing their left leg in, it's</p> <p>20 more of a push onto their knee, and then they're</p> <p>21 able to help stand themselves up.</p> <p>22 Q. Okay. And when he is laying on the</p> <p>23 ground -- well, let me ask you this.</p> <p>24 How long is he laying on the ground</p> <p>25 before you assist him to his feet?</p>
<p style="text-align: right;">170</p> <p>1 A. The right hand, I believe, if you</p> <p>2 watch the video, I -- I sit there in this position</p> <p>3 with my knees on his back. You can't see him, but</p> <p>4 my knees are on his back. I'm on -- most of my</p> <p>5 weight is on the balls of my feet and I am taking</p> <p>6 his gloves off.</p> <p>7 Q. Okay.</p> <p>8 A. Off his right hand.</p> <p>9 Q. Okay.</p> <p>10 A. Then I'm able to get a handcuff on his</p> <p>11 right wrist. Then I believe somehow I'm either</p> <p>12 able to pull his jacket sleeve up and I'm able to</p> <p>13 get him handcuffed with his left hand still --</p> <p>14 with his glove on.</p> <p>15 Q. Okay. And would you agree that you</p> <p>16 apply the handcuffs in a manner that did not allow</p> <p>17 for a pinkie distance between his skin and the</p> <p>18 cuffs? Did you apply the handcuffs tightly?</p> <p>19 A. I applied my handcuffs as I've been</p> <p>20 trained.</p> <p>21 Q. Okay.</p> <p>22 A. They -- I did not cinch those</p> <p>23 handcuffs down any tighter than anybody else.</p> <p>24 Q. Okay. And then at some point you</p> <p>25 assist him to his feet by grabbing one of his</p>	<p style="text-align: right;">172</p> <p>1 A. I would have to watch the video, but</p> <p>2 an estimation, a few minutes.</p> <p>3 Q. Okay. And from the time you handcuff</p> <p>4 him -- and we'll watch the video in a minute --</p> <p>5 but you leave the video vantage point for several</p> <p>6 minutes. What are you doing during that time</p> <p>7 period?</p> <p>8 A. I'm telling my dispatch center that I</p> <p>9 was just involved in a crash. Telling my dispatch</p> <p>10 center that I'm code 4. I've got one detained.</p> <p>11 Q. Tell me what code 4 means.</p> <p>12 A. Everything's okay.</p> <p>13 Q. Okay.</p> <p>14 A. I'm safe. Suspect is safe.</p> <p>15 Everybody's okay. Asking -- telling other units</p> <p>16 where I'm at. Other responding units that are</p> <p>17 coming to try to assist, telling them where I'm</p> <p>18 at. And asking for sheriff's office to come and,</p> <p>19 you know, investigate things.</p> <p>20 Q. Okay. And did you make the decision</p> <p>21 on your own to ask Lane County sheriff to do an</p> <p>22 outside investigation?</p> <p>23 A. I did.</p> <p>24 Q. Okay. So your supervisor did not</p> <p>25 instruct you to do that?</p>

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1 A. I don't.

2 Q. Okay. Do you know what ultimately
3 happened with those citations?

4 A. I do not.

5 Q. Were you aware that they were never
6 filed by the district attorney?

7 A. Wouldn't surprise me. I was not
8 aware.

9 Q. Okay. Were you aware that Mr. Wilkens
10 was never convicted of any charges as a result of
11 this incident?

12 A. I'm aware now.

13 Q. But you weren't throughout the
14 entirety of the last two years?

15 A. I don't recall, ma'am. I may have
16 been told and forgot. I don't recall if he had
17 been prosecuted or not. I'm assuming he was not
18 prosecuted -- well, I know we didn't go to grand
19 jury and I know I didn't have to get court notice,
20 but it could have been pled out through court. I
21 wasn't -- I don't recall if I was notified or not.

22 Q. Okay. In felony -- when felony
23 citations are issued, would you normally be kept
24 apprised of the court proceedings?

25 A. No.

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1 actually go out to a flat track at an old airport
2 which is flat, so there is no curves. And we
3 simulate or have them -- have the students drive
4 under as many conditions as we can simulate as
5 they're going to do in the real world. Abrupt
6 lane changes, rapid braking, rapid acceleration,
7 cornering.

8 And then, ultimately, we train up to
9 what we call pursuit driving, where they chase
10 each other around the track. One is the driver,
11 bad guy. Another one's a -- simulating being the
12 police officer. And then as they progress, then
13 we have the students chase or pursue instructors.

14 And what we are hoping is they can
15 monitor the platforms of the car so they can feel
16 it. They can sit in the car while somebody else
17 is driving so they feel -- feel what it's like.
18 They can see what the car in front of them's doing
19 because we're performing the same things on the
20 track.

21 And then as they get better, the
22 speeds increase until sometimes, in the Chargers
23 on the track, we reach speeds of 120 miles an
24 hour.

25 Q. Okay. With regard to -- I think you

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1 had sort of started trying to explain braking and
2 curves, and I think you had mentioned not to ride
3 the brakes. But can you kind of elaborate on
4 what -- what is expected or what is good practice
5 with regard to high -- higher speeds and using the
6 brakes on curves?

7 A. Well, everybody's taught initially --
8 or we explain that if you ride the brakes you have
9 a tendency to make the brakes overheat because
10 they're -- every time there's friction there's
11 going to be heat generated.

12 And we teach a method of braking, when
13 to brake in the corner, prior to the corner, where
14 to brake through the corner, and then if there's
15 any braking after the corner. So it's kind of a
16 process.

17 So the process is to try to do the
18 majority of your braking and slowing down when the
19 vehicle's in a straight line. To limit your
20 braking through the curves as much as you can,
21 because it upsets the platform too much, which
22 then takes away traction from the tires.

23 So we teach a manner in how they are
24 to brake hard in a straight line, and then ease
25 off the brakes as they enter into a corner, and

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1 then to then go into the acceleration.

2 We explain that the mere fact that the
3 car is going through a corner creates its own
4 brakes. It does slow vehicles down, because you
5 have what they call rolling friction. So as the
6 sharper the curve, the tires are not traveling in
7 a straight line. So as the tires are turning
8 sharper and sharper they're creating friction,
9 which also slows the vehicle down.

10 Q. Okay.

11 A. So that's really about it.

12 Q. Okay. What are you -- what do you
13 teach or what is the practice with regard to -- I
14 think you either called it fast braking or
15 high-speed braking when you have to come to a
16 stop?

17 A. Well, the thing about -- what we talk
18 about is the faster you go, the more heat is
19 created with brakes. So the faster you have to
20 come to a stop or the more that you're using your
21 brakes a lot because you're going fast, you're
22 going to create a lot more heat.

23 When you create more heat it typically
24 can cause some brake fade. I mean, it ultimately
25 could cause complete brake fade, but that's very,

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1 very -- does not happen very often. And what that
2 does is it just slows your ability to -- or
3 inhibits your ability to stop or slow quite as
4 fast.

5 Q. Is stopping when brake fade is
6 possible or is occurring, is that something that
7 they practice or that they try to get experience
8 in that controlled setting?

9 A. Yeah. We actually have one drill
10 where we -- where we do that. It's hard to
11 complete it -- it's hard to train like that
12 because what happens is when we practice our
13 high-speed pursuing and being chased or chasing
14 somebody else, we don't let the vehicles come to a
15 stop for very long or we don't bring them down to
16 real, real slow speeds. We typically tell them to
17 continue rolling to let the brakes cool.

18 So we don't do a lot of like driving
19 super, super fast and then parking the car or
20 coming to a complete stop and letting it set,
21 because there's a lot of heat there. And the mere
22 fact that you're moving creates air over the
23 brakes and helps cool them.

24 So they get a little bit of training
25 but not a lot.

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<p style="text-align: right;">49</p> <p>1 rolling log of what's happening with the pursuit</p> <p>2 that the siren may be turned off and then turned</p> <p>3 back on.</p> <p>4 I can also see a time where out in --</p> <p>5 you're beginning a pursuit. You know, you're not</p> <p>6 sure at that point if it is a pursuit or if it's</p> <p>7 kind of a failed to yield. There may be a time</p> <p>8 lag when the -- when the siren doesn't come on</p> <p>9 immediately. But as a general rule when you're</p> <p>10 chasing, it's lights and siren.</p> <p>11 BY MS. REGAN:</p> <p>12 Q. Okay. And, in general, if you are,</p> <p>13 you know, attempting to pull over a vehicle, so</p> <p>14 they're not eluding yet, you know, you're not to</p> <p>15 that point, but you've put on your lights and</p> <p>16 they're not pulling over, would you then be</p> <p>17 required to turn on your siren?</p> <p>18 A. Again, I would turn on my siren for a</p> <p>19 violator. But I know from what we teach at the</p> <p>20 academy, at a certain speed, the siren -- the</p> <p>21 violator can't hear it anyway. We do -- we show</p> <p>22 this to new officers. At a certain speed somebody</p> <p>23 in a car can't hear a siren. So the siren is more</p> <p>24 for letting everybody else out in -- maybe a</p> <p>25 bicyclist.</p>	<p style="text-align: right;">51</p> <p>1 BY MS. REGAN:</p> <p>2 Q. So on that note, have you ever seen</p> <p>3 the Camaro, the ADEP vehicle?</p> <p>4 A. I've seen it, yes.</p> <p>5 Q. Do you happen to recall how the lights</p> <p>6 are positioned in that vehicle?</p> <p>7 A. No.</p> <p>8 MS. REGAN: Okay. If you want to</p> <p>9 take a break, I will try to see if I have that</p> <p>10 photo --</p> <p>11 MR. CAMPBELL: Okay.</p> <p>12 MS. REGAN: -- that he's looking</p> <p>13 for.</p> <p>14 MR. CAMPBELL: I just mainly need to</p> <p>15 find a Kleenex box around here.</p> <p>16 (Recess: 2:05 p.m. to 2:09 p.m.)</p> <p>17 BY MS. REGAN:</p> <p>18 Q. Okay. I think that you testified</p> <p>19 earlier that when driving an unmarked vehicle an</p> <p>20 officer is required to be in uniform. Is that</p> <p>21 correct?</p> <p>22 A. That's my understanding, yes.</p> <p>23 Q. And does uniform include the hat?</p> <p>24 A. No.</p> <p>25 Q. Okay.</p>
<p style="text-align: right;">50</p> <p>1 Q. Oh.</p> <p>2 A. Maybe somebody walking. But the</p> <p>3 siren -- and I believe the speed, if I'm not</p> <p>4 mistaken, is about 58 miles per hour. You can be</p> <p>5 behind somebody with a siren going, and if they're</p> <p>6 150 feet in front of you, if I remember the</p> <p>7 distance, they can't hear the siren.</p> <p>8 So the siren is not so much -- my</p> <p>9 understanding -- so much for the person in the</p> <p>10 car. It works better in the cities. It works</p> <p>11 better when you -- maybe somebody's not paying</p> <p>12 attention.</p> <p>13 Q. Uh-huh.</p> <p>14 A. You can hit the siren and then it</p> <p>15 makes them look around. But if you're chasing</p> <p>16 somebody at 80 or 100 miles per hour they can't</p> <p>17 hear the siren. The siren is for everybody else.</p> <p>18 Q. Okay. Okay.</p> <p>19 MR. CAMPBELL: Can we take a quick</p> <p>20 break?</p> <p>21 MS. REGAN: Well --</p> <p>22 MR. CAMPBELL: Are you right in the</p> <p>23 middle? Are you going?</p> <p>24 MS. REGAN: Yeah.</p> <p>25 MR. CAMPBELL: Okay.</p>	<p style="text-align: right;">52</p> <p>1 A. The hat is -- we're supposed to use</p> <p>2 our hat under most circumstances. But the</p> <p>3 uniform, meaning the marked uniform --</p> <p>4 Q. Okay.</p> <p>5 A. -- is displaying a badge is the</p> <p>6 verbiage.</p> <p>7 Q. Okay. So in terms of trying to be</p> <p>8 more identifiable as a police officer when driving</p> <p>9 an unmarked vehicle wearing, that state trooper</p> <p>10 hat would not necessarily be something that they</p> <p>11 would be trained to be wearing in order to be more</p> <p>12 visibly a police officer?</p> <p>13 A. Well, we have -- we have -- it's my</p> <p>14 understanding, I don't believe it's in this</p> <p>15 policy, but we have a policy that we -- if we're</p> <p>16 conducting traffic stops in a portion of the Motor</p> <p>17 Vehicle Code, under most circumstances, we're to</p> <p>18 wear our hat. There are exceptions. Officer</p> <p>19 safety and those type of things.</p> <p>20 But as a general rule, yes, we do wear</p> <p>21 our hat on anything, whether driving unmarked or a</p> <p>22 marked car.</p> <p>23 Q. Okay. And --</p> <p>24 MR. CAMPBELL: Let me --</p> <p>25 (Off-the-record discussion.)</p>

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<p style="text-align: right;">57</p> <p>1 come towards me, I can use a strike to kind of</p> <p>2 reinforce the fact that they need to stay back.</p> <p>3 And I would, I guess, kind of say that's offensive</p> <p>4 in nature. I mean, it's defensive in that I'm</p> <p>5 trying to keep that space away, but it's kind of</p> <p>6 offensive in nature because all they're</p> <p>7 necessarily doing is trying to close that gap.</p> <p>8 And they haven't necessarily launched an attack</p> <p>9 yet, but I'm trying to stop that from happening.</p> <p>10 MR. CAMPBELL: And that's just one</p> <p>11 example. I mean --</p> <p>12 THE WITNESS: Yes.</p> <p>13 MR. CAMPBELL: I just wanted to make</p> <p>14 sure.</p> <p>15 MS. REGAN: Don't testify, please.</p> <p>16 MR. CAMPBELL: Yeah.</p> <p>17 BY MS. REGAN:</p> <p>18 Q. Under No. 4 for ranges of combat on</p> <p>19 page 111.</p> <p>20 A. Yes.</p> <p>21 Q. It says, "Range 1, kicking</p> <p>22 techniques." And then in parentheses it says,</p> <p>23 "Long range." Could you explain to me what that</p> <p>24 means?</p> <p>25 A. These are all kind of relative to</p>	<p style="text-align: right;">59</p> <p>1 describe for me what is a front snap kick?</p> <p>2 A. Let me refer to this real quick and</p> <p>3 read it. (Pause.)</p> <p>4 The front snap kick is basically a</p> <p>5 kick striking with the bottom of your foot</p> <p>6 basically by lifting your -- your leg out, keeping</p> <p>7 that, you know, slightly bent knee, and then</p> <p>8 utilizing the power from the knee and, I guess,</p> <p>9 the hip to kind of kick outwards.</p> <p>10 Q. Okay. And when you say the bottom of</p> <p>11 the foot, are you basically just talking about the</p> <p>12 flat part of the shoe?</p> <p>13 A. Yes.</p> <p>14 Q. Like the entire length of someone's</p> <p>15 foot?</p> <p>16 A. Yes.</p> <p>17 Q. Versus the ball or the heel?</p> <p>18 A. Well, I mean, yeah. You're going to</p> <p>19 strike with whatever part of that bottom foot that</p> <p>20 you can hit, whether it's the heel or the toe or,</p> <p>21 you know, the mid-foot.</p> <p>22 Q. Okay. So, for instance, under C,</p> <p>23 where it says, "Contact should be made using the</p> <p>24 balls of the feet or the toes," and then in</p> <p>25 parentheses is says "boots," is that what you were</p>
<p style="text-align: right;">58</p> <p>1 where the threat is in relation to me. So a kick,</p> <p>2 I can reach out farther. And then as the threat</p> <p>3 gets closer, then I'm going to have mid-range,</p> <p>4 which is going to be strikers striking, because I</p> <p>5 can only strike out this far with my boot, you</p> <p>6 know, where kicks will come out this far.</p> <p>7 And then as it gets in closer, it's</p> <p>8 close quarters. So that's going to be elbows,</p> <p>9 knees, because, once again, now I can only reach</p> <p>10 out this far.</p> <p>11 Q. Okay. So in using mid-range and</p> <p>12 long-range, it sounds from your descriptions that</p> <p>13 mid-range is basically to the extent that an arm</p> <p>14 can be extended?</p> <p>15 A. Yeah.</p> <p>16 Q. Whereas long-range might be the length</p> <p>17 of someone's leg?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. So the range is literally</p> <p>20 measured by body parts --</p> <p>21 A. Yes.</p> <p>22 Q. -- not by feet or --</p> <p>23 A. Right.</p> <p>24 Q. Okay. Thank you. Turning to page</p> <p>25 114, No. 6 is entitled "Front snap kick." Can you</p>	<p style="text-align: right;">60</p> <p>1 just describing --</p> <p>2 A. Yeah.</p> <p>3 Q. -- in terms of the bottom of the foot?</p> <p>4 A. Yeah, because my boots are very solid.</p> <p>5 I mean, that is literally a solid platform.</p> <p>6 There's not the flex in there to really be able to</p> <p>7 necessarily hit the ball of the feet.</p> <p>8 So, yeah, it's just going to be</p> <p>9 that -- that boot.</p> <p>10 Q. Okay. So I guess just to make sure I</p> <p>11 understand this, when I read this section using</p> <p>12 the balls of the feet, in my head I imagined that</p> <p>13 being something less than the full brunt of a flat</p> <p>14 foot of a boot. But it sounds from your testimony</p> <p>15 that they are one and the same.</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And would you agree that the</p> <p>18 primary target areas are the knees and the groin?</p> <p>19 A. For general safety we would like to</p> <p>20 target those lower areas. The higher up you kick,</p> <p>21 I guess the more danger there is relative for the</p> <p>22 officer to do that just because you're going to be</p> <p>23 a little bit more off-balanced. But, yeah, those</p> <p>24 are primary targets.</p> <p>25 Q. Okay.</p>

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1 A. But there are other targets that are
2 okay as well.
3 Q. Would a kick to the sternum or
4 clavicle area up near the neck, top of the chest,
5 would that be a primary target area?
6 A. It's not in the primary target areas,
7 because the primary targets are the knees and the
8 groin.
9 Q. Okay. So there'd only be those two.
10 Would it be an acceptable target area?
11 A. Yes.
12 Q. And under what circumstances?
13 A. Under the circumstances in which it's
14 reasonable based on the perceptions of the
15 officer.
16 Q. Why would it be reasonable to aim for
17 the neck rather than the groin or the knees?
18 MR. CAMPBELL: Object to the form.
19 You can answer.
20 A. If I'm -- if I'm justified in using,
21 say, a higher level of force to where I want to
22 affect the throat, then I'm okay to kick for the
23 throat. If I'm justified in using a lower level,
24 then maybe I would just aim for the knees or the
25 groin. If I'm kind of, you know, somewhere in the

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1 middle then maybe, you know, I kind of range up a
2 little bit higher.
3 It all depends on the effect that I'm
4 trying to get and that's where reasonableness kind
5 of comes into line. Because if I kick somebody's
6 knee out and blow out their knee that's probably a
7 much higher level of force than if I kick somebody
8 in the abdomen and kind of try to knock them
9 backwards or create space.
10 BY MS. REGAN:
11 Q. Uh-huh. And would -- I think you just
12 testified that the higher up into the chest or
13 kicking them in the neck, would that be considered
14 deadly force?
15 A. Kicking them in the chest, no. In the
16 neck, you know, maybe. It depends on how the kick
17 is delivered. It depends on, you know, what
18 the -- I guess the threat does while that kick is
19 being delivered. If they kind of duck as I'm
20 kicking I can't necessarily just stop that mid-air
21 where I may hit the throat when that's not the
22 area that I was targeting.
23 Q. And where the officer was,
24 quote-unquote, targeting would be based on a
25 statement that they provided. Correct?

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1 A. Yes.
2 Q. Would deadly force be warranted if a
3 person was stopped for a traffic crime and did not
4 lay down on the ground when commanded to do so?
5 Want me to repeat that?
6 A. No. I get the gist of it.
7 MR. CAMPBELL: Well, don't make
8 assumptions. If you need more clarification ask
9 her. Otherwise, just answer the question she's
10 asking.
11 A. Well, if we're just specifically
12 looking at I stopped you for elude, and you're not
13 getting on the ground and you're just standing
14 there.
15 BY MS. REGAN:
16 Q. With your hands visible.
17 A. With your hands visible and you were
18 not doing anything else.
19 Q. Is deadly force warranted?
20 A. Under those specific circumstances
21 there, I would say probably not.
22 Q. Under that scenario, are you, as a use
23 of force instructor, able to tell me what range of
24 use of force would be permissible?
25 A. So the facts are the elude. They

64

1 stopped. They're just standing there.
2 Q. Their hands visible.
3 A. Their hands visible, noncompliant
4 [sic], and nothing else going on.
5 Q. Yes.
6 A. Once again, this is, you know, all
7 relative to the perception of the officer at the
8 time, but if you're looking at those very specific
9 generic facts, with nothing else going on, then
10 the display of the firearm, the verbal commands,
11 and then it depends on the officer's comfort
12 level, but I could see an officer utilizing
13 empty-handed custody techniques if they approached
14 rather than created distance, which is a technique
15 to minimize the amount of time they have to
16 respond is also to close that gap to where, yeah,
17 empty-handed custody techniques would be
18 appropriate.
19 Q. Okay.
20 MR. CAMPBELL: Can I just ask you to
21 clarify one thing about your answer? And if you
22 want to take a break, we can. But I just want to
23 know if you meant when you said "they" -- you
24 said, "they could close the gap," were you talking
25 about the officer or the violator?



NEWS RELEASE
LANE COUNTY SHERIFF'S OFFICE
EUGENE POLICE DEPARTMENT



ARRESTED:

- David Ray Taylor, 55, Eugene
- AJ Scott Nelson, 22, Clackamas County
- Mercedes Crabtree, 18, Milwaukie

VICTIM:

- Celestino Gutierrez, age 22, Eugene

DETAILS:

On August 3, 2012, a car linked to a Siuslaw Valley Bank robbery, occurring the same day, in Mapleton was found abandoned in Mapleton.

Lane County Sheriff's Office followed up with an investigation and found it to belong to Celestino Gutierrez, age 22, of Eugene, who had been reported missing on August 3, 2012.

Investigation led detectives from the Eugene Police Department and the Lane County Sheriff's Office to suspects David Ray Taylor, age 55, of Eugene, A.J. Scott Nelson, age 22, of Clackamas County, and Mercedes Crabtree, age 18, of Milwaukie.

Police arrested Taylor on Wednesday, August 8, 2012, in Eugene on a warrant from another county. He was taken into custody, without incident, by Eugene Police. A smaller, modified SWAT team was used to make the arrest more secure for all parties and Taylor was arrested without resistance.

AJ Scott Nelson and Mercedes Crabtree were both taken into custody on Thursday, August 9, 2012, at separate locations in the Portland area with the assistance of U.S. Marshals as a precaution. These arrests were also made without incident.

The investigation also led law enforcement to the discovery of Gutierrez's body in a remote area of Lane County. The investigation has linked the above suspects to the Siuslaw Bank robbery that occurred in Creswell on June 8, 2012.

No further information or interviews are available at this time.

###

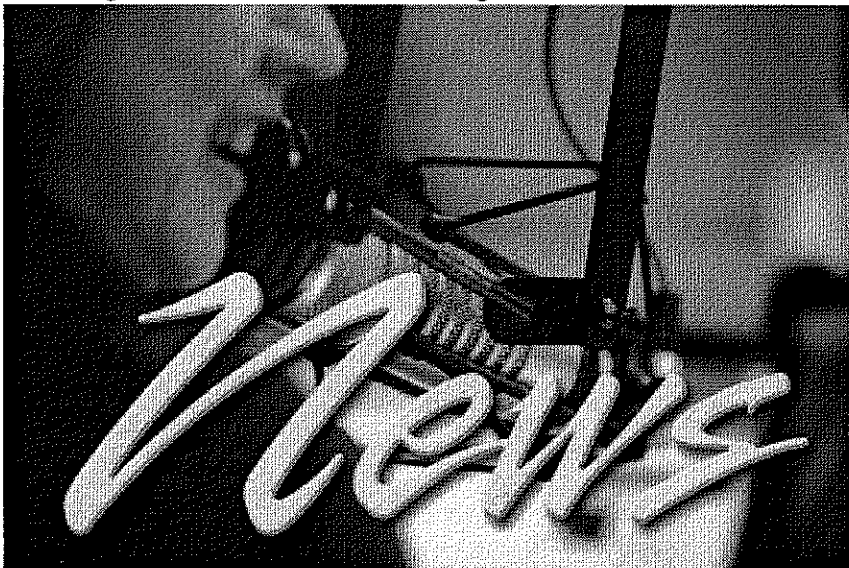
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Breaking News: Siuslaw Bank in Mapleton Held Up

Bob August 4, 2012 4:33 am Uncategorized



Local News

Just before noon this morning, two men carrying rifles and wearing ski goggles walked into the Siuslaw Bank Mapleton Branch and demanded money. They then left in a white, "90's hatchback". One suspect is described as being between six-foot and six-three with a thin build and wearing a white jumpsuit. The other suspect is slightly shorter, with a heavier build, and was wearing a dark colored jumpsuit with a possible leather vest over it.



Two armed men robbed the Mapleton Branch of Siuslaw Bank just before noon Friday, August 3rd. (Photo courtesy Siuslaw Bank)

Police do not know which direction the men fled and have not suspect information at this time. They're asking anyone with leads to call Sergeant Cliff Harold at 541-682-4141.

Siuslaw Bank has not been contacted for comment.

The Lane County Sheriff's Press Release on the incident is below:

CASE NUMBER:	12-5387
DATE/TIME OF INCIDENT:	8/3/12 10:30 AM
DATE/TIME OF RELEASE:	8/3/12 1:00 PM
NATURE OF STORY:	Armed Robbery at Siuslaw Bank
LOCATION:	Mapleton
DETAILS:	

The Lane County Sheriff's Office along with Oregon State Police responded to a report of a bank robbery this morning at approximately 10:30 am. Initial reports indicate that two armed males robbed the Siuslaw Bank in Mapleton on Highway 126. They fled the bank in a white colored, 90's model 2 door hatchback. The vehicle is described as having blue interior and appears very beat up looking.

Suspect Descriptions:

Suspect #1: Male, standing approximately 6'0" to 6'3" wearing a white jumpsuit/ coverall. He was described as having a thin build. Suspect was wearing ski goggles and carrying a long gun.

Suspect #2: Male, slightly shorter than suspect #1 with a heavier build than suspect #1. Suspect was described as wearing a black jumpsuit/ coverall with a black or brown leather vest over the coverall and wearing ski goggles.

We do not have any suspects in custody and are asking anyone with information to contact

Sgt Cliff Harrold with the Lane County Sheriff's Office at 541-682-4141.

No further information is available at this time.

###

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Athlete of the Week

Athlete of the Week

Watch this space for the regular Athlete of the Week feature presented each week during the school year by Coast Radio, the Siuslaw News and the Sports Club; a group of businesses who

Court hears opening statements in Taylor murder trial



(<http://twitter.com/share>)

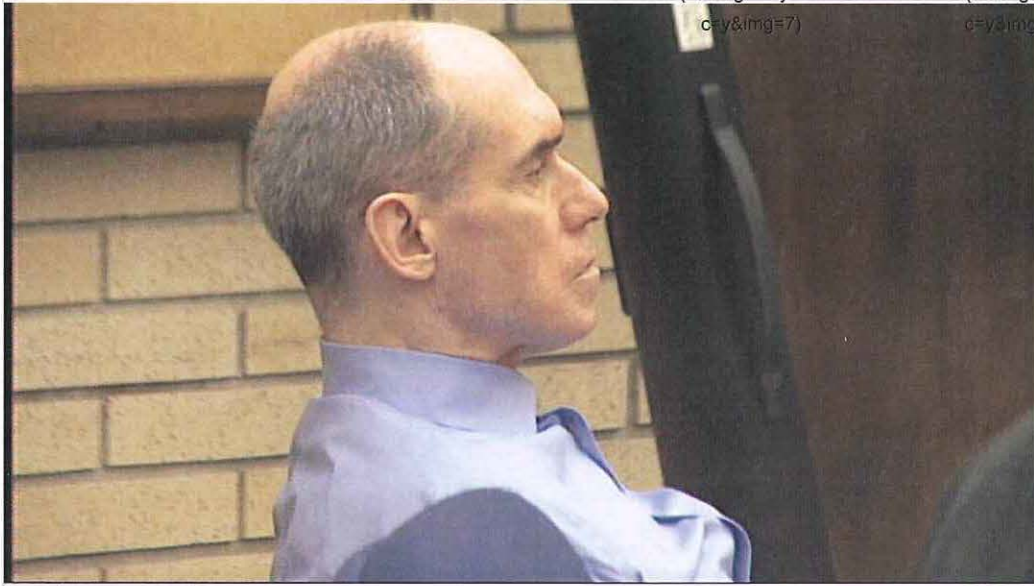
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Court hears opening statements in Taylor murder trial



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Court hears opening statements in Taylor murder trial



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**LANE COUNTY
SHERIFF'S OFFICE**
125 E. 8TH AVENUE
EUGENE, OR 97401
541-682-4150

CFS EVENT DETAIL

CAD EVENT NUMBER

1208042911

CALL TYPE

ELUDE**CALLS FOR SERVICE INFORMATION**

AGENCY EGS	CAD EVENT NUMBER 1208042911	CASE NUMBER 1205393	AGENCY NUMBER	DATE AND TIME 08/03/2012 12:56	CALL TYPE ELUDE	CALL TYPE EXPLAINED ELUDING	FINAL CALL TYPE
LOCATION CROW RD MP04				APT/SUITE/BOX	CITY UNC EUG	RESPONSE ZONE	RESPONSE AREA 0004
LOCATION COMMENT CROW RD MP04							
COMMENTS 19323-8/3/2012 12:56:59 PM-Original Location : CROW RD MP04 19323-8/3/2012 12:57:22 PM-OSP ATTMP OVERTAKE MC BLUE IN COLOR 19323-8/3/2012 12:57:25 PM-LCSO ENR C3 19323-8/3/2012 12:58:05 PM-EPD, ROUTED FOR INFO, OSP IN PURSUIT NB ON CROW RD, PASSING MP03 19323-8/3/2012 12:58:28 PM-PASSING MP1, 90MPH 19323-8/3/2012 12:59:09 PM-LIC/M54309 19323-8/3/2012 12:59:34 PM--MISSING A # - LIC AS GIVEN 19323-8/3/2012 12:59:49 PM-MC HAS CRASHED, UNKN LOC 19323-8/3/2012 1:00:18 PM-145 CONTINUING FROM BELTLINE & ROOSEVELT 19323-8/3/2012 1:01:20 PM-C4C - UNITS BACK TO C1 ***LOC IS 11TH/CROW 19323-8/3/2012 1:01:39 PM-C*:NO INJURIES 19323-8/3/2012 1:02:01 PM-NO INJURIES 2976-8/3/2012 1:02:39 PM-X560 ADVI 19323-8/3/2012 1:04:18 PM-C*:OLN/9105112 19323-8/3/2012 1:04:33 PM-OLN/9105112 19323-8/3/2012 1:08:26 PM-POSS RELATED TO CAD/42905? 12345-8/3/2012 1:21:07 PM-A145 REQ NON-PREF TOW FOR ELUDE AND NO INS 19323-8/3/2012 1:23:23 PM-MEDICS ON SCENE 19323-8/3/2012 1:37:37 PM-INITIAL TIME OF OSP CAD 1256 CAD/256613 15979-8/3/2012 2:08:26 PM-M10 ENR RBH CODE 1							
REPORTING PARTY						AREA CODE	PHONE NUMBER
REPORTING ADDRESS							
PRIMARY UNIT A531	DISPOSITION REPT	DISPOSITION COMMENTS REPORT TAKEN					
E-911	DISPATCH 12:56:59	ARRIVED 13:05:23	CLEARED 17:20:43	CLOSED 17:20:43			

UNITS STATUS RECORDS

TIME	UNIT	STATUS	COMMENT	LOCATION	DISPO
14:07	A145	AV	CONVERTED RECORD		
17:20	A531	AV	CONVERTED RECORD		REPT

LINKED NAMES

UNIT	REASON	NAME (OR DL)	DOB
		WILKERSON, JUSTIN MICHAEL	03/14/1974

LINKED VEHICLES

UNIT	REASON	LICENSE NO.	ST	MAKE	YEAR	COLOR
		M654339	OR			/
		M654339	OR			/
		M654339	OR	APRI	2006	/RED/
		M54309	OR			/

CASE NUMBERS

CASE NUMBER	AGENCY	UNIT
1205393	EGS	A145

CONTINUATION REPORT

LANE COUNTY SHERIFF'S OFFICE

PAGE 6 OF 7
CASE NUMBER 12-5393

AO/ LCSO Deputy B. Holiman # 145

E/ Digital Photographs taken by Deputy Holiman

W/ Oregon State Police Lieutenant R. Edwards # 260

Related/ Supplemental by Trooper Edwards OSP Case # 12-256613

INVESTIGATION:

On 8/3/12 at approx. 1256 hours, I overheard an Oregon State Trooper attempting to overtake a motorcycle northbound on Crow Rd. at over 100 mph. As I started in that direction from the River Rd. area, I heard the Trooper advise that the motorcycle had just passed another vehicle northbound on a corner in a no passing zone. I then heard the trooper advise that he was in pursuit and overheard the emergency siren in the background. The trooper then stated that the vehicle had crashed at the intersection of Crow Rd. and W. 11th St..


Upon arrival, I observed the motorcycle lying on its right side on the shoulder of Crow Rd. on the southeast side of the intersection. The unmarked Oregon State Police vehicle was directly behind the motorcycle and had stopped in the turn lane from northbound Crow Rd. to eastbound W. 11th. The police vehicle had the emergency lights on that I could clearly see coming up to the crash scene. I observed that the police vehicle had minor damage to the front passenger side of the vehicle. The motorcycle had minor damage to the back end. Looking south from the intersection at Crow Rd., there is approx. 250 feet of straight roadway prior to the intersection. I did not observe any brake marks or skid. I observed a male subject sitting on the hood of the police vehicle wearing a motorcycle helmet and in handcuffs. I and Deputy Holiman removed the handcuffs from the motorcycle operator and replaced them with 2 sets of handcuffs that were double locked and checked for tightness. Trooper Edwards asked for Emergency Fire and Safety to respond due to the motorcycle operator complaining of pain in his shoulder.

I contacted Trooper Robert Edwards who advised that he was the driver of the police vehicle. Trooper Edwards requested that I conduct the investigation. I obtained his statement. I then contacted the operator of the motorcycle, Justin Wilkens and obtained his statement after confirming that he had been advised of his Miranda Rights. When asked if he understood his Miranda Rights, Wilkens stated "yes". Deputy Holiman photographed the crash scene. An audible check of the emergency siren on the involved police vehicle was done and determined to be in good working order.

Farwells Towing responded for the motorcycle impound. I issued Wilkens citations in lieu of custody for Attempting to Elude, Reckless Driving and Reckless Endangering. I explained the mandatory court appearance date, time and location to Wilkens. Wilkens elected to ride in the ambulance due to extreme pain in his shoulder.

STATEMENT: Robert Edwards

Edwards stated that he was operating his police vehicle northbound on Crow Rd. near Erickson Rd. at approx. 60 mph. The involved motorcycle passed him at a high rate of speed also going northbound. Trooper Edwards activated his emergency lights and attempted to stop the vehicle. The motorcycle was coming up to a left corner that is marked with a caution speed of 45 mph and passed another vehicle as he was entering the corner. There is a solid yellow line going into the corner that the offender had crossed to be able to make the pass. Trooper Edwards then advised that he was in pursuit and activated his siren. In a long straight stretch near mp 2 on Crow Rd., Edwards paced the motorcycle at 120 mph. As the motorcycle slowed for traffic at the

Reporting Officer Ware # 531 32127	I.D.#	Assisting Officer	I.D.#	Date & Time Prepared 8/3/12 at 1640 hrs	Approved By 	I.D.#
---------------------------------------	-------	-------------------	-------	--	--	-------

Ex. 261
WIL - OSP - 0016

CONTINUATION REPORT

LANE COUNTY SHERIFF'S OFFICE

PAGE 7 OF 7
CASE NUMBER 12-5393

intersection of Crow Rd. and W. 11th, Edwards observed the operator appear to be looking for a spot to get into eastbound traffic. As Edwards approached the motorcycle, he braked and said that there was immediate "brake fade". Edwards could not get the vehicle to stop in time and bumped the motorcycle at 3 to 5 mph. The operator of the vehicle initially stayed upright but the force of the light collision caused him to drop the motorcycle to the ground on its right side. Trooper Edwards exited his vehicle and the operator jumped up and started walking towards him. Edwards pushed the subject back and ordered him to the ground where the subject was taken into custody. Edwards confirmed that his emergency lights and siren had been activated and that the operator of the vehicle had looked back at him 5 to 7 times during the incident.

STATEMENT:

Justin Wilkens

Wilkens stated that he was northbound on Crow Rd. and did pass the Chevrolet Camaro. Wilkens then passed another vehicle just prior to the corner and said that he may have cut that one a little close and when he finished passing it was in the solid yellow line area. Wilkens also passed a Honda that looked like it was set up as a street racer and that the occupants had waved him pass. Wilkens continued and looked back and thought it was still the Honda behind him and that it was just "having fun". When Wilkens came up to the intersection, he looked back and observed that the Camaro was a police vehicle with its lights on and he knew that he was getting stopped. Wilkens said that he was looking for a spot to pull over when the police vehicle struck him from behind.

Wilkens said that he frequently rides motorcycles and is a safe rider but does like to push the vehicles. Wilkens never did look at his speedometer for safety reasons but thought that he was probably going over the speed limit. Wilkens claimed that he never saw the emergency lights or heard the siren until he got to the intersection.

Wilkens appeared to be in a fair amount of pain and stated that he was surprised that he broke his arm just from the trooper helping get him to his feet from the ground.

FOLLOW-UP:

NONE

REFERRAL:

D.A.'s OFFICE & OSP TROOPER EDWARDS

DISPOSITION:

CLEARED BY ARREST

Reporting Officer Ware # 531 32127	I.D.#	Assisting Officer	I.D.#	Date & Time Prepared 8/3/12 at 1640 hrs	Approved By <i>MP</i> EX-211	I.D.#
---------------------------------------	-------	-------------------	-------	--	---------------------------------	-------

WIL-OSP-0017

MRN: 02059850 Visit: 31319843 DocType: ED Report

05 ♦ Shoulder Injury / Pain ♦

TIME SEEN: 1455 on arrival ROOM: 35 EMS Arrival

HISTORIAN: patient family medic interpreter

HX / EXAM LIMITED BY: dementia sedation encephalopathy

PCP / Specialist

HPI

chief complaint: injury / pain to: R/L shoulder arm neck

onset / duration:

just prior to arrival

today / yesterday

3 min / hrs / days ago

severity of pain:

mild moderate severe

(1/10) 7

where:

home school neighbor's

park work street

context:

fall direct blow

dislocated while raising arm

pt c/o (L) shoulder pain after being rear-ended by a police car on his motorcycle and pulled off the grounds by his (L) shoulder while in hand cuffs. Pt denies all other Sx's. Pt reports he put his hands in the air when he got off bike and then pulled off and

associated symptoms:

weakness

bruising

unable to move shoulder. The ground, which is when he reports the fx occurred.

ROS

recent illness

fever / chills

chest pain

shortness of breath

cough productive

abdominal pain / injury

neck / back pain

LNMP preg post-menop

problems urinating

headache

nausea / vomiting

leg / ankle swelling

rash

anxiety / depression

all systems neg except as marked

• NEURO / HEME / MS components also addressed in HPI

PAST HX R/L HANDED

cardiac disease AMI A-Fib

diabetes Type 1 Type 2

diet / oral / insulin

hypertension

asthma / COPD

hepatitis / HIV

prior injury

old records ordered / reviewed / summary:

Tetanus immun. UTD / given in ED

Meds none / see nurses note

Allergies NKDA / see nurses note

SOCIAL HX

smoker

drugs (meth / heroin / cocaine / marijuana / dependence)

alcohol (recent / heavy / occasional / dependence) daily

occupation Owns a restaurant

FAMILY HX

cardiac disease

Denies family hx

Page 1 of 2

WILKENS, Justin M.
14Mar1974 38 M
M: 02059850 E ERD

A: 031319843 D: 31Aug2012
T: 14:38



ED Report

Nursing Assessment Reviewed Vitals Reviewed
VS Temp 36 HR 103 RR 20 BP 142/92 SPO2 100

PHYSICAL EXAM

General Appearance c-collar / backboard (PTA / in ED)

no acute distress mild / moderate / severe distress

alert anxious

SHOULDER see diagram

nml inspection tenderness soft-tissue / bony

full ROM swelling ecchymosis

no dislocation deformity

clavicular deformity AC drop-off

anterior fullness

limited ROM

held in: adduction abduction

internal rotation external rotation

limited: adduction abduction

internal rotation external rotation

flexion extension

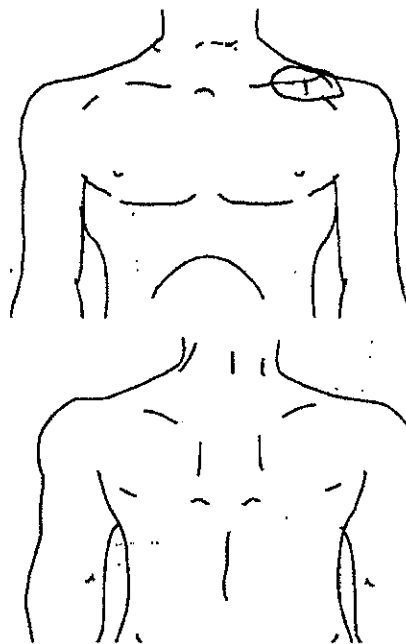
UPPER EXTREM. see diagram

uninjured below shoulder tenderness soft-tissue / bony

swelling

limited elbow ROM

Abrasions (B) wrists



T=Tenderness PT=Point Tenderness S=Swelling E=Ecchymosis B=Burn
C=Contusion L=Laceration A=Abrasions M=Muscle spasm PW=Puncture Wound
(0=without m=mild mod=moderate s=severe)

NEURO

sensory / motor deficit

weak arm abduction (deltoid)

abnl reflexes

© 1996 - 2008 T-System, Inc. Circle or check affirmatives, backlash (/) negatives.

Sacred Heart Medical Center at RiverBend
Sacred Heart Medical Center, University District
EMERGENCY PHYSICIAN RECORD

MRN: 02059850 Visit: 31319843 DocType: ED Report

35

VASCULAR

☒ no vascular compromise

 abnml color / warmth / cap refill _____
 brachial pulse deficit _____
 radial pulse deficit _____

SKIN

☒ warm, dry

 see diagram _____
 diaphoretic / cool / cyanotic _____
 decubitus _____

HEAD / ENT

☒ nml inspection
 pharynx nml

 tenderness / swelling _____
 ecchymosis _____

NECK / BACK

☒ nml inspection
☒ non-tender
☒ painless ROM

 tenderness / swelling _____
 ecchymosis _____
 vertebral point-tenderness _____

RESPIRATORY

☒ chest non-tender
☒ no resp. distress
☒ breath sound nml

 ecchymosis / abrasions _____
 crepitus / subcutaneous emphysema _____
 wheezes / rales / rhonchi _____

CYS

☒ heart sounds nml
☒ reg. rate & rhythm

 tachycardia / bradycardia _____
 irregularly irregular rate _____

ABDOMEN

☒ non-tender
☒ no organomegaly

 tenderness _____
 guarding _____

PROCEDURES

REDUCTION OF SHOULDER DISLOCATION Time:

 procedural sedation (see attached sheet) _____
 traction / counter traction _____
 kocher maneuver _____
 weights (____ lbs) _____
 scapular manipulation _____
 other _____

RECHECK POST-REDUCTION:

exam: neuro/vasc intact

Time:

post reduction Xray: good alignment Hill - Sachs deformity

OTHER

☒ sling / ☒ shoulder immobilizer / clavicle strap

LABS, EKG & XRAYs

CBC	Chemistries	UA	ETOH
normal except	normal except	normal except	TOX
WBC	Na		
Hgb	K		PT/PTT
Hct	CO2	HCG	INR
Platelets	Gluc	serum / urine	
	BUN	POS NEG	
	Creat		

 EKG ☒ NML ☐ Interp. by me ☐ Reviewed by me Rate _____
 NSR ☐ nml intervals ☐ nml axis ☐ nml QRS ☐ nml ST/T

 XRAYs ☒ Interp. by me ☒ Reviewed by me ☐ Discd w/ radiologist

 R/L shoulder ☒ clavicle ☒ AC joint
 nml / NAD nml alignment ☒ fracture nml soft tissue
 Clavicular fx
 2nd rib fx
 Other _____

PROGRESS

 Time _____ unchanged _____ improved ☒ re-examined
 1530 D/w/pt xray results and plan for radiologist to view xray. PT will f/u w/ orthopedist at Stocom. DW plan for pain rx and a sling and shoulder immobilizer to wear for comfort/tx.

♦ AMI - EKG / ASA / Thrombolytics / PCI / transfer

 referred to / discussed with Dr. _____ Time: _____
 will see patient in: ED / hospital / office in _____ days

 Counsel patient / family regarding: Additional history from:
 lab / rad. results / diagnosis / need for follow-up family caretaker / paramedics
☒ Rx given Morph, Percocet
 CRIT CARE TIME (excluding separately billable procedures) _____ min

CLINICAL IMPRESSION

Contusion	AC Separation
Laceration	Axillary Nerve Palsy
<input checked="" type="checkbox"/> Fracture open / closed R/L clavicle	Dislocated Shoulder R / L
(scapula humerus head / neck / shaft)	anterior posterior
♦ Myocardial Infarction - acute	Sprain / Strain

☒ 2nd rib fx

 DISPOSITION: ☒ home ☐ transferred ☐ AMA ☐ eloped
 Time 1530 ☐ admitted ☐ POA decubitus / UTI (foley)

 CONDITION: ☐ unchanged ☐ improved ☒ stable ☐ worsened

Care transferred to Dr. _____ Time: _____

_____ PA / NP _____ MD / DO

 Resident
 Provider # _____

 _____ MD / DO
 Provider # 44378

Jenna Partidge Scribe

☒ Template Complete ☐ See Addendum (Dictated / Template # _____)

MRN: 02059850 Visit: 31319843 DocType: ED Chart Forms

35

ILKENS, Justin M. 14 Mar 1974 M: 02059850 A: 031319843 D: 31 Aug 2012 T: 14:38

Walk ☐ Carried ☐ W/C ☒ Ambulance

Discharge time: 1642

riage Time: _____

riage Class: 1 2 3 4 5

InPt Admit time: _____

Pain Score 0 1 2 3 4 5 9 10

PCP: Doesing

Transferred to: _____

Chief Complaint: (L) Shoulder pain p assaulted by Buchanan

RN: T. R. EMR# 1004 Date 8/3

Specialist: _____

Referred by Dr. _____

Resides at: _____

Triage Vital Signs: T 36.6 P 103 R 20 BP 142/92 POX 100% WT 100 lbs

ETOH Drug Yes No Unable

DV Screen Yes No Unable

TB Yes No Unable

Respir Iso

Allergies: N/A

☐ Oxygen ☐ Blood in Lab

☐ Suction ☐ Saline Lock

☐ Suture Set ☐ Cath Urine

☐ Monitor: _____

☐ CBG: _____ ☐ RT Protocol

☐ Blood draw by RN/TECH: _____

☐ Urine Dip: _____

☐ Urine Preg: ☐ Pos. ☐ Neg.

☐ EKG

PANELS ☐ Cath Alert ☐ CP ☐ CSF

☐ Hip Fx ☐ Pneumonia ☐ Psych

☐ Resus (RapidPoint) ☐ Sepsis

☐ Stroke Alert ☐ Thrombolytics

☐ TIA ☐ Trauma ☐ Other: _____

BLOOD BANK ☐ Hold ☐ TypeScreen

☐ Crossmatch _____ units: _____

BLOOD ☐ ABG ☐ Ammonia ☐ BNP

☐ CBC/autodiff ☐ CK Total ☐ CMP

☐ D-dimer Other: _____

HCG ☐ qual ☐ quant ☐ Lactate

☐ Lipase ☐ MBA ☐ Monospot

☐ PT/INR ☐ PTT ☐ Rh

Troponin ☐ x1 ☐ 3hr ☐ serial

☐ TSH ☐ Other: _____

URIN ☐ midstream ☐ minicath ☐ foley

☐ UA w/microcultIF ☐ Urine DAS

C&S/SWABS: ☐ Affirm, vag

☐ Blood x # ☐ C&S (site) _____

☐ GC/Chlam ☐ Influenza DFA

☐ Rapid Strep ☐ RSV ☐ Urine

IMAGING (indication: _____)

☐ CT Abd/Pelvis w. ☐ CT Head w/o

☐ CTA Head/Neck ☐ CT KUB

☐ CT (site) _____ w. ☐ w/o

☐ CXR-1 ☐ CXR-2 HipXR ☐ L ☐ R

☐ MRI _____ w. ☐ w/o

☐ US (site) _____

☒ Xray (site) (L) Shoulder

☐ Xray (site) _____

Meds/ Doses (Pharmacy: _____)

Tx PTA: _____

☐ Rx pad med rec ☐ Coumadin ☐ No meds

☐ Med list printed

☒ ED Pain Protocol ☐ ED Nausea and Vomiting Protocol

1545 (L) Shoulder immobilized and for sling

whichever is most comfortable

Phu stream on the left will be called

for appt. percut 2 tabs PO Motrin

800 mg PO 2 tabs

Refused 2nd percut.

MCA → hit by police car 12:45 pm

"Shoulder pain"

511-554-7175

PHU - 8 AM

SA Restaurant owner Davis Steak House

PH @

Impression: (L) clavicle fx (L) 2nd rib fx

F-Up/Transfer MD _____ Consult MD _____ Admit MD _____

Signature: Justin Francisco RN Signature

Signature: W. DeForest MD Signature

EMR# 55722

EMR# 1438

8/3/12

8/3/12

Time 1642

Time

Dictation #

Patient Identification

Sacred Heart Medical Center 22116 (04/02/12)

ED Clinical Service Record

1 of 1

white - HRS yellow - pharmacy pink - physician office

Wilkens - M5

~~WILKANS~~, JUSTIN 05/07/14

DOB: 03/14/74 Age: 40 Wt: 208 Ht: 72" BMI: 28 BP: 122/82

CC: Presents for left shoulder pain.

S: The patient has been having pain in the left shoulder since injury which was sustained on 08/03/12 during an arrest for a traffic stop. The patient notes that he was injured by the police officer who arrested him. He actually brings a video of the arrest which was obtained from the Oregon State police officer's surveillance camera, which he plays for me. During the stop he noted that the police officers vehicle ran into the back of his motorcycle after he had stopped knocking him to the ground. As he stands up the police officer orders him to the ground and kicks him in the left shoulder with his right foot, which the patient believes caused the clavicle fracture. He has been handcuffed and notes that as he was pulled from the ground by the left shoulder had significant pain. The patient has an attorney who is helping him with a claim against the Oregon State police. He was seen by Dr. Daniel Sherrin for orthopedic evaluation and underwent an open reduction and internal fixation of the left mid clavicle fracture with placement of plate and screws. He continues to have ongoing pain in the left shoulder, worse with reaching above his head or behind his back, as well as some crepitus and pain with internal and external rotation over the acromial area. The patient has questions regarding whether the plate and screws should be removed, or what his expectation should be as far as ongoing pain and suffering as they are trying to work out a settlement with the state. His attorney is Lauren Regan who is helping him with his claim. He does not believe that he had an ultrasound or MRI scan of the left shoulder following the injury.

O: GENERAL: A pleasant, soft spoken, physically fit appearing male. SHOULDER: Left clavicle area with fairly long incisional scar which follows almost the entire length of the left clavicle. There are no palpable screws or hardware underlying the incision. There is no crepitants over the clavicle which range of motion. There is mild crepitants over the acromial clavicular area, as well as some reaching behind his head and behind his back. Internal and external rotation appears intact strength wise. Sensory motor exam is intact.

A/P: 1. Status post left shoulder injury with mid clavicle fracture, status post ORIF. 1. Long discussion regarding his injury as well as circumstances. It is recommended that he followup with Dr. Sheerin for discussion of any recommendations for further care such as removal of hardware. He will also discuss possibility of ultrasound or MRI scan of the shoulder to rule out rotator cuff tear which may have occurred occultly and not recognized due to his fracture. 2. He is to followup here as needed. Carbon copy of chart note to go to Lauren Regan, Attorney at Law.

Michael Boespflug, M.D./lh *MB*

5-16-14 Records faxed to Slocum they will appt w/pt. pt aware ~ *gm*